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CONSTRUCTIONS

BY

THE COURTS OF

Sudder Dewanny and Nizamut Adawlut,

OF THE

REGULATIONS AND LAWS

FOR

THE CIVIL GOVERNMENT

OF THE

Whole of the Territories under the Presidency

OF

FORT WILLIAM IN BENGAL.

VOL. III.

PERGUNGE DEWANNY ADAWLUT

CALCUTTA:

PRINTED AT THE BENGAL MILITARY ORPHAN PRESS,

BY G. H. HUTTMANN.

1843.

BENGAL SECRETARIAT
LIBRARY

CONSTRUCTIONS

OF THE

REGULATIONS OF GOVERNMENT

BY THE COURTS OF

Sudder Dewanny and Nizamut Adawlut.

1123—1125.
29 Dec. 1837.
22 Jan. 1838.

No. 1123.
1814.
Reg. XXVI. Sec. 4.

On a reference from the judge of Tirhoot, it was held by the Calcutta Court, in concurrence with the Western Court, that a judgment passed by an additional judge during the time he officiated for the judge of the district, is to be reviewed by the former if still attached to the district, and not by the judge.

December 29th, 1837.

No. 1124.
1796.
Reg XI.
1817.
Reg. XX. Sec. 26.

A prisoner was charged with plunder, and acquitted by the magistrate. On appeal to the sessions court, the magistrate's sentence was reversed, and the prisoner was sentenced to fine and imprisonment. He appealed to the Nizamut Adawlut, which Court ultimately confirmed the order of the session judge, directing however, on the appeal being preferred, that the prisoner should be admitted to bail till the receipt of the Court's decision. He absconded, and the bail was forfeited. Held by the Calcutta Court, in concurrence with the Western Court, that his property was not liable to forfeiture under the provisions of Regulation XI. 1796 and Section 26, Regulation XX. 1817, which are applicable only to persons *charged* with a crime but not convicted, and that he must be proceeded against as an absconded convict.

December 29th, 1837.

No. 1125.
1829.
Reg XVII.
Sec 4, Cl. 2.

Held by the Calcutta Court, in concurrence with the Western Court, that Clause 2, Section 4, Regulation XVII. 1829, which prescribes the punishment for the offence of aiding and abetting in the commission of suttee, being silent in regard to labour, and it being necessary to interpret penal enactments literally, a session judge is not competent to sentence a person convicted of the above offence to labour in addition to imprisonment.

January 22d, 1838.

26 Jan. } 1838.
5 Feb. }

No. 1126.

1793.
Reg. IV. Sec. 6.

In a regular suit, in which the witnesses named by the plaintiff had been duly summoned, but had neglected to attend under the summons and give their evidence as required, it was held by the Calcutta Court, in concurrence with the Western Court, that it was incumbent on the judge, under the spirit of Section 6, Regulation IV. 1793, to call on the plaintiff's counsel to satisfy him by evidence on oath, that these witnesses were material to the cause; and that he ought not to have struck the case off the file, until he had explicitly called upon the party to proceed in the manner above indicated.

January 26th, 1838.

No. 1127.

Calculation of the time allowed for an appeal in a regular suit when a review of judgment has been applied for to the court of decision and rejected.

Held by the majority of the Western Court, in concurrence with the majority of the Calcutta Court, that a party having applied for a review of judgment, under the provisions of Clause 2, Section 4, Regulation XXVI. 1814, in a case open to appeal, but in which no appeal may have been preferred, and such application having been rejected, is not entitled of right to the deduction of the time, during which his application for a review was pending before the lower court, in calculating the period allowed him under the Regulations for preferring a regular appeal from the original decision: but that where such party may plead as the reason of his not having presented his petition of appeal within the period prescribed by law, that the case was pending before the lower court on an application for a review of judgment, it would be the duty of the appellate court to take such plea into consideration, and to admit it or not, according as, under all the circumstances of the case, it might appear just and proper, in like manner with any other cause assigned for delay.

February 2d, 1838.

The following Extract from a Note, laid before the Calcutta Court by their Register on the 5th February, 1838, *embodies the substance of the several constructions which have been adopted on the subject of the jurisdiction of the Civil Courts in regard to Lands under settlement by the Revenue authorities under the provisions of Regulation IX.* 1833.

No. 1128.

1833.
Reg. IX.
Jurisdiction of the civil courts in regard to lands under settlement by the revenue authorities under the provisions of the above regulation.

Para. 4. The first reference formed the subject of the letter of the Western Court, No. 33, dated 4th December, 1835. The question mooted for opinion was as follows: "A suit is instituted regarding a boundary dispute between two villages, and an ameen is deputed to make local enquiries. Before the decision is given the collector decides the disputed boundary: can the court interfere in this decision; or does it bar any investigation of the merits of the case?" The two Courts concurrently ruled* that under the circumstances stated, there was nothing which should operate to interrupt the progress of the suit, or prevent it taking its course.

* Calcutta Court's letter No. 51, dated 2d January, 1836.

5. The second reference was that of the Agra Court's letter No. 41, dated 11th December, 1835. It arose out of a collision of jurisdiction between the judge of Gorukhpore

and the settlement officer appointed under the provisions of Regulation IX. 1833, in certain parts of that district. In this instance it was held by both Courts,* that it was not competent to the settlement officer to interfere with regard to awards of court given previously to the period of his appointment, unless by order of the court, or with the consent of the parties.

* Calcutta Court's letter No. 95, dated 8th January, 1836.

6. The third case was forwarded for the opinion of this Court with the letter of the Western Court No. 1075, dated 16th December, 1836. The reference of the judge of Ghazeepore was to the following effect:—"A case of disputed boundary between two contiguous estates under settlement is litigating in the moonsiff's court, and still undecided, when the settlement officer proceeds under the authority vested in him by Sections 6 and 7, Regulation IX. 1833, to appoint a punchayet by drawing lots. In the mean time the moonsiff gives a decree in favor of one party, and the arbitrators base their award on the said decree, acting upon which the collector marks off his boundary, and concludes his settlement. Such being the case, is it competent to the judge to entertain the question in appeal from the moonsiff's decision, with the chance of course of reversing the arbitration award, or is he precluded from interference by Section 9, Regulation IX. 1833?" The Western Court proposed to reply that there was nothing in the explanation to operate to prevent the appeal taking its course.

7. In this opinion the Calcutta Court* did not originally concur. They observed that the award of the punchayet, and the decision of the collector thereon, being subsequent to the date of the moonsiff's decree, the award could not be affected by any order the judge might pass on the trial of the appeal: and that the appeal being in fact a suit brought to set aside the collector's decision must be non-suited with costs under the rule contained in Section 9, Regulation IX. 1833.

* Calcutta Court's letter No. 261, dated 27th January, 1837.

8. The Western Court in their letter No. 1105, dated 15th September last, requested that this Court would re-consider the reference. They forwarded further correspondence on the subject of the particular case previously referred, and of other similar cases. They entered at large into the consideration of the subject: and in the 3d paragraph of their letter observed as follows:—

"The following general questions appear to arise out of the present correspondence, which it seems desirable to determine for the future guidance of the judicial and revenue officers, and with a view to define the jurisdiction to be exercised by those authorities respectively in cases of the nature of those under reference.

1st.—Is it competent to a revenue officer, engaged in making settlements under the provisions of Regulation IX. 1833, or any other enactment, to interfere in regard to any case pending before any court of civil judicature at the date of settlement, either as an original suit, or in appeal?

2d.—Is it competent to such officer to interfere, under the provisions of the above-mentioned regulations, in regard to any case which may have already been judicially determined by a court of civil judicature, either as an original suit or in appeal?

3d.—Does any limitation of time exist under the regulations, in regard to the cognizance by the revenue officers of disputed private claims brought before them under the provisions of Regulation IX. 1833; or is it competent to those officers to take cognizance of all cases of that nature without reference to the date of the cause of action, which at the time of settlement may not be depending before any court of civil judicature, or which may not have already been judicially determined by a court of competent jurisdiction?"

9. The Western Court were of opinion that it was not competent to the revenue officers to exercise the powers described in the first question, unless the parties should themselves apply by petition for the removal of their cause to the court of the settlement officer, with a view to its being decided under the provisions of Sections 5 to 8, Regulation IX. 1833.

The Court were further of opinion that the second question must also be determined in the negative, unless the interference took place by order of the court, or with the consent of the parties.

In regard to the third question the Western Court ruled that no case could be tried by the revenue officers, in which the cause of action may have arisen more than one year previous to the complaint, and that only such cases could be taken up by them as regards the extent of interest of parties in possession, and the decision of which was necessary to the due allotment of the Government jumma, leaving all old and extraneous claims to the decision of the courts: such opinion being in conformity with instructions issued by the Sudder Board of Revenue to the subordinate revenue authorities.

10. On a re-consideration of the whole subject the Calcutta Court concurred in the above opinions as expressed in their letter to the Western Court, No. 3444 of the 3d November last.

No. 1129.

Miscellaneous orders passed in the execution of a decree, carrying into effect the original intentions of the court, are not open to dispute by a regular suit.

Held by the Western Court, in concurrence with the Calcutta Court, that any order passed in the execution of a decree in regard to mesne profits, interest, or other matter in dispute between the parties to the suit, which may be involved in the decision, must be looked upon as a necessary process for carrying into effect the original intentions of the court passing the decree, in respect to a point, in which it may, in fact, be said already to have pronounced a formal judgment, and cannot, therefore, be considered as constituting a new cause of action.

February 9th, 1838.

No. 1130.

Reg. V, Sec. 5, Cl. 1.

Held by the Calcutta Court, in concurrence with the Western Court, that a zillah judge has no summary jurisdiction under theprovisions of Clause 1, Section 5, Regulation V. 1830, in the case of an application by a ryot to settle his accounts with an indigo factory, before the expiration of his contract. A summary decision of the judge of Rajshahye in a case of this nature, was quashed by the Court on a summary appeal.

February 9th, 1838.

To the Session Judge of Zillah Behar, dated 16th February, 1838.

No. 1131.
Punishment to which a burkundaze is liable for gross neglect of duty in conniving at the escape of a convict

The Court having had before them two letters* from the commissioner of the 11th division on the subject of the punishment to which a burkundaze is liable under the regulations for a gross neglect of duty, in conniving at the escape of a convict, desire me to request that you will direct the magistrate's attention to construction No. 206, dated 25th May, 1815, page 66, volume I. construction book, from which it will be seen that a burkundaze convicted of the offence alluded to is punishable by fine and imprisonment under the sentence of the magistrate, agreeably to the provisions of Section 19, Regulation IX. 1807. Should the magistrate however be of opinion that the sentence he is thereby authorized to pass is inadequate to the offence of which the prisoner is convicted, he must proceed to commit him under the rule laid down in Section 6, Regulation II. 1799.

* No 745, dated 28th September, 1837.
No 1269, dated 12th December 1837, with their respective enclosures from the magistrate of Behar.

February 16th, 1838.

From the Register of the Western Provinces to the Register of the Presidency Court of Sudder Dewanny Adawlut, under date the 16th February, 1838.

No. 1132.
1814.
Reg. XXVIII. Sec. 8.

A question having arisen in a case, now depending before the Court, as to whether an application from a pauper appellant to stay the execution of the decree given against him, pending the appeal, is admissible on plain paper, I am directed to request that you will submit the point for the consideration of the Calcutta Court.

2. The Court are of opinion, that as applications of the nature of that abovementioned, are not included amongst the exceptions, contained in Section 8, Regulation XXVIII. of 1814, which distinctly specifies the description of papers on which the stamp duties are to be remitted to paupers, they must be drawn out on stampt paper of the value prescribed for petitions presented to the courts in which they may be filed. The Court direct me to add that this principle has already been acted upon in regard to vakalutnamehs where the pauper may himself appoint a vakeel, as well as in respect to security bonds filed under Section 6, Regulation XXVIII. of 1814, and it appears to them equally applicable to petitions presented to the Court for the purpose before stated. The Court propose accordingly to adopt it as a rule of future practice.

The Presidency Court, on the 9th March, 1838, concurred in this construction.

February 16th, 1838.

From the Register of the Western Provinces to the Register of the Presidency Court of Sudder Dewanny Adawlut, dated 16th February, 1838.

No. 1133.
Mode of proceeding in regard to the decree of a foreign court

An appeal having been presented to the Court from an order passed by the judge of zillah Mirzapore, in regard to the attachment and sale of a house, situated within the limits of his jurisdiction, in execution of a decree passed by a court of civil judicature in

or a decree passed in an extra regulation jurisdiction, when the decree-holder desires to sue out execution against property situated in any of the regulation districts.

the Saugor and Nerbudda Territories, to which the civil Regulations of the British Government have not been extended, a question has arisen whether it was competent to the judge to exercise any interference in the matter, and I am directed, therefore, to request that you will submit the point for the consideration of the Calcutta Court.

2. The Court observe that on a reference being made to the advocate general under date the 27th June, 1809, to ascertain whether any and what measures could be adopted in the case therein mentioned, to recover from the defendant, who had proceeded to England, the amount of a decree given against him by the Court of Sudder Dewanny Adawlut at Calcutta, the following opinion was obtained from that officer: "A foreign "judgment is, generally speaking, considered as a primâ facie ground of action in our "courts, and the judgments of courts in the colonies and dependencies are to this pur- "pose upon the same footing in the courts in England with foreign judgments. If "however a foreign judgment should appear on the face of it to be erroneous, it will not "support an action, as we only profess to give effect to those judgments, where they "are conformable to justice, and the general principles of law, which is presumed till the "contrary appears. The proper course for the appellants under the general rule would "be to transmit an exemplification of the judgment of the Sudder Dewanny Adawlut, "and of the whole proceedings in the cause under the seal of the Court, and the signa- "tures of the judges, with proper powers of attorney, to some person in England to "institute a suit on the judgment of the Sudder Dewanny Adawlut against the "respondent."

3. It appears to the Court that the same principle is equally applicable to the case which has given rise to the present reference; and they propose, in the event of the Calcutta Court concurring in this opinion, to act upon it accordingly in disposing of the appeal now before them, by setting aside, as illegal, the whole of the proceedings held by the judge of Mirzapore, and intimating to the decree-holder that he is at liberty to institute a suit in that court against the opposite party, founded on the judgment passed in his favor by the civil court in the Saugor and Nerbudda Territories.

Adopted in concurrence with two of the Judges of the Calcutta Court.

February 16*th*, 1838.

From the Officiating Session Judge of Zillah 24-*Pergunnahs to the Register of the Presidency Court of Nizamut Adawlut, dated* 13*th January*, 1838.

No. 1134.

1835 Act VII. Circular Order, Nizamut Adawlut, No 240, July 21st, 1837.

Ramnarain Doss *versus* Issurchunder Bonnerjee, late darogah of Thannah Chitpore.

A case of bribery and extortion which was thrown out by the magistrate of the 24-Pergunnahs, has been appealed to me.

2. I request to be favored with the Court's opinion and instruction on the following queries, to remove all doubts as to the extent of the order of the Right Honorable the Governor of Bengal, contained in the Superior Court's letter circular of the 21st July, 1837.

Query 1*st.*—Does the above letter remove cases of committal of police officers for bribery from the session judge to the commissioners ?

Secondly.—Is the order of the magistrate in the above case and similar appeals open to my revision, and have I power to order the magistrate to commit in such cases ?

To the Officiating Session Judge of Zillah 24-*Pergunnahs, dated* 2*d March,* 1838.

I am directed to state that the Court are of opinion that the circular order dated 21st July, 1837 (which has been partially superseded by Act XXIV. 1837,) does not remove cases of committal of police officers for bribery from the session judge to the superintendent of police.

2. In reply to the question contained in your letter No. 8, of the 13th January last, the Court are of opinion that appeals of the nature alluded to are open to your revision, and that you have the power as session judge to order the magistrate to commit in such cases.

The Western Court, on the 16*th February,* 1838, *concurred in this construction.*

March 2*d,* 1838.

Extract of a Letter from the Register of the Presidency Court to the Judge of Zillah Chittagong, dated 2*d March,* 1838.

No. 1135.
1819.
Reg X.
Sec. 110, 111, 115.

Para. 1. I am directed by the Court to state that in their opinion the salt authorities are empowered by Sections 110, 111 and 115, Regulation X. 1819, to award either of two penalties, viz. a fine, or imprisonment in commutation of the same, according to the scale laid down in Section 110. The judge therefore who enforces the order in cases where the fine does not exceed fifty rupees, and judicially disposes of the cases where the fine exceeds that amount, must proceed to realize the fines by the usual process of execution. If the fine is forthcoming before the defendant is committed to jail, the case is concluded : if forthcoming after commitment to jail, the case is likewise disposed of, and the prisoner must be immediately released : if the fine be not forthcoming, the person fined must undergo the prescribed period of imprisonment in commutation, and the levy of the fine is then barred, that is, the fine is not demandable after the imprisonment has been undergone, and the party released.

Majority of the two Courts concurred.

March 2*d,* 1838.

To the Officiating Session Judge of Dinagepore, dated 9*th March,* 1838.

No. 1136.
1817.
Reg XX.
Sec. 16, Cl. 17.

The Court having had before them your letter No. 266, dated the 26th ultimo, direct me to inform you, that it is competent to you to issue orders for the payment to police officers of the commission on the value of stolen property recovered by them, which is authorized by Clause 17, Section 16, Regulation XX. 1817.

March 9*th,* 1838.

Extract of a letter from the Register of the Presidency Court to the Register of the Nizamut Adawlut, Western Provinces, dated 9th March, 1838.

No. 1137.

A prisoner admitted as an evidence should be examined de novo, and not be merely sworn to the truth of the statement made by him as a defendant.

Para. 1. An instance having been brought to the notice of the Court, in which a magistrate, after taking the confession of a prisoner during the preliminary investigation of a case committed for trial to the Sessions Court, admitted him as an evidence by merely swearing him to the truth of his former confession, I am directed to request that you will submit the question of the legality of such a proceeding for the consideration and opinion of the judges of the Western Court.

2. The majority of the Court hold that the practice is irregular and illegal; and that the prisoner standing in quite a different position as an approver, should be examined *de novo*, instead of being merely sworn to the truth of a statement made by him in the character of a defendant.

From the Register of the Western Provinces to the Register of the Presidency Court of Nizamut Adawlut, dated 24th March, 1838.

I am directed to acknowledge the receipt of your letter, No. 680, under date the 9th instant, and in reply to state, that the Court are unanimously of opinion with the majority of the Calcutta Court, that in the case described in your letter, the magistrate's proper course was to have taken the examination of the individual therein referred to *de novo*, instead of swearing him to the truth of the statement alleged to have been made by him in the character of a defendant during the preliminary investigation of the case.

March 9th, 1838.

No. 1138.

1796. Reg XIII. Sec. 3.

No. 1139.

1814 Reg XXVI Sec 2.

Circular Order, 5 D Adawlut, No 33, Nov 5, 1812

Applications for the admission of special appeals to be considered as miscellaneous petitions until the appeal has been admitted notice prescribed by circular order of the 5th Nov 1812, not necessary in such cases.

A copy of the decree appealed against should always accompany a petition of special appeal.

On a reference from the judge of Chittagong, it was held by the Calcutta Court, in concurrence with the Western Court, that it is not competent to a zillah judge to impose a fine under the provisions of Section 3, Regulation XIII. 1796, on the appellant in a miscellaneous case, the rule therein laid down not being applicable to such appeals.

March 16th, 1838.

On a reference from the judge of Tirhoot, it was held by the Calcutta Court, in concurrence with the Western Court, that a petition of special appeal, until the appeal has been admitted, is to be viewed as a miscellaneous petition, and that consequently it is not necessary in such cases to issue the notice prescribed by the Circular Order No. 33, of the 5th November, 1812, which refers to suits admitted and pending.

2. Held further that a copy of the decree appealed against must always accompany the application for the admission of a special appeal.

March 23d, 1838.

1140.
23 March, 1838.

From the Officiating Additional Judge of Tirhoot to the Officiating Register of the Presidency Court of Sudder Dewanny Adawlut, dated 9th December, 1837.

No. 1140.
1806
Reg. XVII. Sec 8.

I beg to solicit the opinion of the Court of Sudder Dewanny Adawlut on the following point.

2. A suit is instituted by A, for the possession of certain landed property which had been mortgaged to him by B. Previous to the institution of suit the usual petition under Section 8, Regulation XVII. 1806, was presented by A, and the notice required by that enactment duly served on the seller, who failed to deposit the amount demanded within the prescribed period. B, in his defence, admits the execution of the deed of mortgage, but alleges that the amount therein specified was not justly due, inasmuch as A, taking advantage of his necessities when he applied to him for the loan of the money, demanded a higher rate of interest than the legal one, and prevailed upon him to sign a deed in which a large amount of interest *in advance* at the above illegal rate, together with other unjust charges, were included in the *principal*, upon which the legal rate of interest was stipulated to be paid. He accounts for his not having deposited the amount when called upon to do so under Section 8, Regulation XVII. 1806, by asserting that he was prevented doing so by A, who till the very last deceived him by the promise of making an equitable adjustment of their accounts and of not claiming possession of the mortgaged property.

3. Under such circumstances is the court competent, under the general spirit of the regulations, to enquire into the plea advanced by the seller with regard to the amount not being justly due, and to decide accordingly? or is it bound to consider the sale absolute, if it is proved that the rules laid down in Section 8, Regulation XVII. 1806, were duly observed, and that the seller failed to pay the amount within the prescribed period? It would appear from the circular orders of the 22d July, 1813, that the seller is not *bound* to pay the amount demanded should he dispute its correctness, and as the judge has no authority under the above Section to enquire into the authenticity of the deed, the defendant B may have considered it unnecessary to deposit the amount under the idea that he would be at liberty to dispute the demand when A filed his suit for possession. I find that on the 28th February, 1834, a somewhat similar case to the above, viz. that in which Parusnath Chowdry was appellant and Lalla Peiareh Lal was respondent, was decided by the Sudder Court, in which the purchaser's claim was dismissed on the grounds of the amount not being justly due, notwithstanding that the usual notice under Section 8, Regulation XVII. 1806, was issued. It appears however to have been doubtful in that case whether the seller received the notice or not.

4. I also wish to be informed whether, under the above circumstances, the court could issue a further notice to the seller calling on him to make good the amount within a reasonable period.'

To the Judge of Zillah Tirhoot, dated 23d March, 1838.

I am directed to inform you, with reference to the 2d and 3d paragraphs of Mr. Gouldsbury's letter, No. 63, dated the 9th December last, that in a suit brought by a

mortgagee for the foreclosure of a mortgage, it is competent to the court in which the suit was preferred to enquire whether the transaction was an illegal one *ab initio*, and to decide accordingly.

2. With regard to the question in the 4th paragraph of the letter adverted to, the Court are of opinion that if it was proved that the notice was not duly issued to the mortgagee, the plaintiff ought to be nonsuited, leaving him to apply for the issue of the prescribed notice.

The Western Court, on the 2d March, 1838, concurred in this construction.

March 23d, 1838.

No. 1141.
1819
Reg. VII. Sec. 4.

On a reference from the magistrate of Patna, it was held by the Calcutta Court, in concurrence with the Western Court, that the provisions of Section 4, Regulation VII. 1819, are not applicable to European British subjects as defendants.

March 23d, 1838.

No. 1142.
1837.
Act XXIV. Sec. 7.

On a reference from the magistrate of Nuddea, held by the Calcutta Court, in concurrence with the Western Court, that the power of hearing appeals from the jailor and other subordinate officers of the jail is by Section 7, Act XXIV. 1837, vested in the session judge.

March 23d, 1838.

Extract of a Letter from the Register of the Western Provinces to the Register of the Presidency Court of Sudder Dewanny Adawlut, dated 24th March, 1838.

No. 1143.
1829
Reg X.
Schedule B.
Art. 8

I am directed to request that you will submit, for the consideration and opinion of the Calcutta Court, the following point of law involving a construction of Article 8, Schedule B, Regulation X. of 1829, which has arisen in an appeal now depending before the Court.

2. The Government, having resumed a jagheer, situated in the district of Benares, concluded a zumeendaree settlement of it with the jagheerdar for a term of years; another party claiming the proprietary right of the estate, has brought the present suit to establish the same, and the question that arises is as to the manner in which he should value his claim; whether at the annual jumma at which the estate has been assessed, or at three times the amount, or, under the general rule contained in part 4 of the note annexed to the article in question, according to the estimated selling price.

3. The Court observe, that the first part of the note abovementioned, merely declares, that in suits for lands situated in the ceded or conquered provinces, including Cuttack, the value shall be assumed at the amount of the annual jumma, or where the land may have been assessed in perpetuity, at three times the amount of the annual

jumma, but makes no provision for cases of the nature of that in point, where the land is neither situated in the ceded or conquered provinces, nor permanently assessed. It appears, however, to the Court to be a fair and equitable principle to observe in such cases the distinction laid down in the first part of the note above cited, the reasons of which are obvious; and they propose, should the Calcutta Court concur in this opinion, to act upon it accordingly in disposing of the appeal now before them.

The Presidency Court, on the 6th April, 1838, concurred in this construction.

No. 1144.
1819
Reg. VI.

On a reference from the session judge of Midnapore, held by the Calcutta Court, in concurrence with the Western Court, that as the magistrates' acts, in the management of ferries, are subject to the control of the superintendent of police, it is not competent to a session judge to receive appeals from the magistrate's orders in such matters.

April 6th, 1838.

From the Register of the Western Provinces to the Register of the Presidency Court of Nizamut Adawlut, dated 6th April, 1838.

No. 1145.
1837.
Act XXIV
Sec. 5 and 7.

A reference having been made to the Court, involving the question as to whether the provisions of Sections 5 and 7, Act XXIV. of 1837, are now in force in these provinces, notwithstanding that a superintendent of police has not as yet been appointed to them under the 1st Section of that Act, or whether their operation is contingent upon such appointment, I am directed to request that you will submit the point for the consideration and opinion of the Calcutta Court.

2. The Court observe, that there is nothing in either of the Sections, in question, to indicate that their introduction, as regards either the Lower or Western Provinces, is dependent upon the appointment of a superintendent of police; on the contrary, from the wording of the concluding Section of the Act it would appear to have been the intention of the legislature, that the provisions of it, except as respects that part which authorizes the Government to make such appointment, should under any circumstances come into operation from the 1st January, 1838, in those districts in which the whole administration of criminal justice may have been transferred under Act VII. of 1835, from the commissioners of circuit to the session judges. Where therefore such transfer may have taken place, as is the case in all the districts in these provinces with exception to Delhi and the Saugor and Nerbudda Territories, the Court are of opinion that from the date abovementioned the Sections in question must be considered as in force; and that, consequently, from that date all appeals from orders passed by a magistrate in any judicial proceeding whatever, including cases under Regulation XV. of 1824, should lie to the session judge and not to the commissioner, and that the former officer should receive and forward to the Court the statements hitherto submitted to and forwarded by the latter.

3. Should the Calcutta Court concur in this opinion, the Court propose to issue circular instructions in accordance therewith to the several criminal authorities subject to their control.

The Presidency Court, on the 27th April, 1838, concurred in this construction.

April 6th, 1838.

The following Resolution was passed by His Honor the Deputy Governor of Bengal under date the 20th April, in concurrence with the opinion of the majority of the Calcutta Court of Nizamut Adawlut.

No. 1146.
1825 Reg XI

The Deputy Governor of Bengal concurs in the opinion of the majority of the Presidency Sudder Court, that it is the duty of a magistrate to take all proper measures for preventing affrays and breaches of the peace, and that, with that view, he is competent. in cases of dispute about land gained by alluvion, to put one of the parties in possession, being guided in his decision by the principle recognized in Regulation XI. of 1825.

April 20th, 1838.

No. 1147.
Circular Order, S D A. 27th October, 1837, No. 216

Held that the object of the circular order of the 27th October, 1837, regarding security bonds written on the same sheet of paper with the principal deed, and bearing the stamp required for the latter instrument, was to explain the law on the subject for the protection of the interests of the Government, and not to declare deeds drawn up under those circumstances inadmissible, provided the proper measures were taken to have them legalized. Parties holding such documents are at liberty to apply to the revenue authorities, under Section 14, Regulation X. 1829, to have a stamp affixed to the deeds, so as to make them legal evidence in courts of law.

April 27th, 1838.

From the Register of the Western Provinces to the Register of the Presidency Court of Sudder Dewanny Adawlut, dated 27th April, 1838.

No. 1148.
1837. Act XXV.

I am directed to transmit to you, for the purpose of being laid before the Calcutta Court, the accompanying copy of a letter from the judge of Benares, No. 83, dated the 14th instant, requesting the opinion of the Court on certain points connected with Act XXV. of 1837.

2. In reply to the first question, submitted by Mr. Mainwaring, the Court propose to communicate to him the construction recently adopted by both Courts* to the effect, that appeals from orders passed by the principal sudder ameens, under Clause 6, Section 3, Regulation VII. of 1825, in execution of their own decrees in suits above the value of 5,000 rupees, will lie direct to the Court of Sudder Dewanny Adawlut.

* Subsequently circulated by Circular Order, dated 11th May, 1838.

3. Upon the same principle the Court are of opinion, that summary appeals of the nature of those described in the 3d paragraph of Mr. Mainwaring's letter must follow the like course.

4. With regard to the question submitted in the 2d paragraph of Mr. Mainwaring's letter the Court observe, that the terms of the proviso contained in Section 8 of the Act under consideration, are general, and must, they are of opinion, be held to include cases referred to the principal sudder ameens under that Section in which the amount or value of the matter at issue may exceed 5,000 rupees, equally with those under that sum, and that, consequently, the appeal in such cases from the order of the principal sudder ameen should lie in the first instance to the zillah or city judge, and specially to the Sudder Dewanny Adawlut.

5. Should the Calcutta Court concur in the opinions above expressed, the Court propose to communicate them to Mr. Mainwaring.

From the Judge of the City of Benares to the Register of the Sudder Dewanny Adawlut, Western Provinces, dated 14th April, 1838.

With reference to paragraph 5th of the Court's circular letter No. 491, dated the 23d February last, I request I may be furnished with the instructions of the Court whether summary appeals from the decision of principal sudder ameens in suits above the value of 5,000 rupees, made under Clause 6, Section 3d, and Section 5, Regulation VII. of 1825, are to be made direct to the Sudder Dewanny or as heretofore to this court.

2. Further, with reference to Section 8, Act XXV. of 1837, whether the proviso that appeals from the decisions of principal sudder ameens in miscellaneous or summary proceedings, transferred under that Section, are to be made in the first instance to the judge, applies to cases above the value of 5,000 rupees, or whether the appeal in such cases is to be made direct to the Sudder Dewanny Adawlut.

3. And again, whether summary appeals from the decisions of principal sudder ameens passed under Sections 4 and 5, Regulation II. of 1806, in cases exceeding 5,000 rupees in value, are to be made direct to the Sudder Dewanny Adawlut or as heretofore to this court.

4. Although the principal sudder ameens have now the full power heretofore vested in a judge, the special authority vested in judges by Clause 3d, Section 16, Regulation V. of 1831, and other enactments, has not yet been declared applicable to the principal sudder ameens' courts.

April 27th, 1838.

The Presidency Court, on the 11th May, 1838, concurred in this construction.

From the Register of the Western Provinces to the Register of the Presidency Court of Sudder Dewanny Adawlut, dated 27th April, 1838.

No. 1149.

1837. Act XXV. 1831. Reg. V. Sec. 16.

I am directed by the Court to request that you will lay before the Calcutta Court the accompanying copy of a letter from the judge of Benares, No. 86, under date the 16th instant,

submitting certain further questions connected with Act XXV. of 1837 and the Calcutta Court's circular letter of the 23d February last, issued by this Court on the 30th ultimo.

2. With regard to the first point contained in Mr. Mainwaring's letter, the Court direct me to observe that Act XXV. of 1837, in enlarging the powers of the principal sudder ameens, in no way modifies that part of Clause 1, Section 18, Regulation V. of 1831, which prohibits the reference to those officers of suits in which themselves, their relatives or dependants, or the vakeels or officers* of their court may be a party; and the Court are, therefore, of opinion that such prohibition must be considered to be still in full force.

3. With regard, however, to the second point involved in Mr. Mainwaring's reference, it appears to the Court, that the mere circumstance of a vakeel of the judge's court being authorized by that officer, under the discretionary power vested in him by Clause 3 of the same Section, to practise in the court of the principal sudder ameen either in any case, or in any particular class of cases, such, for instance, as those in which the Government or its officers may be a party, cannot be considered as constituting such vakeel, a vakeel of the principal sudder ameen's court within the intent and meaning of the enactment above cited, and they propose, therefore, with the concurrence of the Calcutta Court, to inform Mr. Mainwaring accordingly.

From the Judge of the City of Benares to the Register of the Sudder Dewanny Adawlut, Western Provinces, dated 16th April, 1838.

With reference to the instructions conveyed in the second paragraph of the Court's circular letter No. 491, under date the 23d of February last, and to the provisions of Section 18, Regulation V. of 1831, I request I may be informed if I am to retain all suits on my own file in which the relations or dependants, or the vakeels or officers of the principal sudder ameen's court are a party. In consequence of the principal sudder ameen being now authorized to dispose of suits in which Government or its officers are a party, the Government vakeel has become a vakeel of the principal sudder ameen's court; and if the prohibition contained in Section 18, Regulation V. of 1831, is still in force, several suits in which the vakeel of Government is himself a party must be retained on my file, and those of a similar description now pending before the principal sudder ameen must be re-transferred to the court.

April 27th, 1838.

The Presidency Court, on the 18th May, 1838, concurred in the construction of the Western Court.

To the Register of the Nizamut Adawlut, Western Provinces, dated 27th April, 1838.

No. 1150.
1807.
Reg. XII. Sec 21.

I am directed by the Court to request that you will lay before the judges of the Court of Sudder Nizamut Adawlut for the Western Provinces, the accompanying copy of a letter from the magistrate of zillah Dinagepore, dated the 9th instant.

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* Section 1, Act XXVII. of 1838, rescinds so much of Clause 1, Section 18, Regulation V of 1831, as prohibits the reference to principal sudder ameens of suits in which the vakeels or officers of their courts are a party.

2. The Court propose to inform the magistrate of Dinagepore, in reply to his question, that under the principle recognized in the Court's construction No. 388 of the printed construction book, any fine imposed in conformity to Section 21, Regulation XII. 1807, should be commuted, if not paid within a given time, to imprisonment for a limited term.

3. With reference to Mr. Bentall's second question, the Court are of opinion that, in the absence of the zemindar, the actual manager of the estate is the responsible person, and should be proceeded against, in default of compliance with the requisitions of the law cited.

4. Should the judges of the Western Court concur in the opinions expressed in the preceding paragraphs, a reply will be made to the magistrate of Dinagepore accordingly.

From the Magistrate of Dinagepore to the Register of the Presidency Court of Sudder Nizamut Adawlut, dated 9th April, 1838.

I have the honor of requesting to be informed whether I may realize the fine authorized by Section 21 of Regulation XII. of 1807, by a sale of the personal and real property of the recusant person.

2. And in case a zumeendar is an absentee from the district, how I am to realize the amount of fine.

April 27th, 1838.

The Western Court, on the 11th May, 1838, *concurred in this construction.*

No. 1151.
1836.
Act. XIII.

The following answers were given to the questions in juxta-position, arising out of a reference made by the judge of Patna, regarding the operation of Act XIII. 1836:

Question 1st.—The sicca rupee being abolished, are all accounts in future, in suits filed in court, to be settled at par, or where the agreement was in sicca rupees, is the calculation to be made at Company's rupees 106-10-8 per 100 siccas?

Answer.—The question supposes that the agreement is for *value* and not for *specific coins.* The calculation will therefore be made at 106-10-8 Company's for 100 Siccas, i. e. the intrinsic difference.

Question 2nd.—From 1st January in the present year, are parties to be allowed to write bonds, deeds, &c. in sicca rupees, and then take exchange at Company's rupees 106-10-8, or must all agreements be drawn out in Company's rupees?

Answer.—It is not necessary that bonds, &c. should be drawn out in Company's rupees; they may be drawn in siccas, and then, if for *value*, they will fall under the last question. If for specific coin (as where a man may covenant to deliver so many coins of the sicca currency, or so many dollars) the payment must be in the coin covenanted.

April 27th, 1838.

11 May, 22 June, } 1838.

No. 1152.

Prisoners disabling themselves for labor, how punishable.

Held by the two Courts of Nizamut Adawlut, on a reference from the session judge of Patna, that prisoners disabling themselves for labor are guilty of a breach of prison discipline, and as such are punishable by the magistrate under the general rules laid down for the better management of public jails.

May 11th, 1838.

To the Judge of Zillah Behar, dated 11th May, 1838.

1153.

1813.

Reg. VI. Secs. 2 and 3.

I am directed to state, that as no mention is made of arbitration bonds in Sections 2 and 3, Regulation VI. 1813, the Court are of opinion, that the mere circumstance of such bonds not having been executed, cannot of itself be held to bar the summary jurisdiction of the civil courts in cases referred to private arbitration under the provisions of those Sections; but that if the reference of the case to arbitration be not denied, the Court should proceed summarily to enforce the award, subject of course to all the rules and limitations laid down in the enactment in question.

2. When, however, the agreement to abide by the award of arbitrators may be disputed, the Court consider that it would be dangerous to allow this point to be determined in a summary form; and they are of opinion, therefore, that in such cases the parties should be referred to a regular suit.

May 11th, 1838.

The Western Court concurred in this construction.

No. 1154.

1828.

Reg. VIII.

Held by both Courts of Nizamut Adawlut, on a reference from the officiating session judge of Dacca, that the provisions of Regulation VIII. 1828, are applicable only to cases of affrays regarding lands, and their produce; and cannot be made to apply to other cases of affray from whatever cause arising.

June 1st, 1838.

From the Register of the Western Provinces to the Register of the Presidency Court of Sudder Dewanny Adawlut, dated 22d June, 1838.

No. 1155.

Civil courts competent to award costs in miscellaneous cases.

A question having arisen as to whether it is competent to the civil courts to award costs in miscellaneous cases, either original, or in appeal, I am directed to request that you will submit the point for the consideration and opinion of the Calcutta Court.

2. The Court observe that it has not hitherto been the practice of this Court, nor, so far as they are informed, of the Calcutta Court, to award costs in such cases. Upon general principles of equity and justice, however, the Court can see no good reason why a party in a miscellaneous case should not be reimbursed, by the opposite party, any reasonable costs to which he may be subjected in prosecuting or defending a just claim, in the like manner as in a regular suit; and they are, therefore, of opinion, there being nothing prohibitory that they are aware of in the Regulations, that the same rules which govern the award of costs in the one case, should equally extend to the other. Should the Calcutta Court concur in this opinion, the Court propose to act upon it in the case,

which has given rise to the present reference, and also to adopt it as a rule of future practice.

3. The Court direct me to add that they understand the practice of awarding costs in miscellaneous cases is very generally followed in the lower courts, and that it is not objected to, at least it has never formed the subject of an appeal to them.

June 22d, 1838.

The Presidency Court, on the 13th July, 1838, *concurred in this construction.*

No. 1156.
1807.
Reg. IX Sec. 19.
Demand of illegal batta on Company's rupees by mehajuns or shroffs.

Held by the Courts of Nizamut Adawlut, on a reference from the magistrate of Behar, that a magistrate is not competent, under the provisions of Section 19, Regulation IX. 1807, to award fine or imprisonment to mehajuns or shroffs who may be in the habit of demanding illegal batta on Company's rupees.

June 29th, 1838.

From the Register of the Western Provinces to the Register of the Presidency Court of Nizamut Adawlut, under date the 6th July, 1838.

No. 1157.
1824.
Reg XV.
A session judge is competent to suspend at any time the execution of the magistrate's final order, pending the decision of the case in appeal, in cases under Reg. XV. 1824.

I am directed to transmit to you, for the purpose of being laid before the Calcutta Court, the accompanying copies of a letter and its enclosures from the session judge of zillah Mynpoorie, under date the 13th ultimo.

2. The Court are of opinion that in cases of the nature of that which gave rise to Mr. Begbie's reference, the session judge must be considered competent to exercise his discretion in suspending at any time the execution of the magistrate's final order, pending the decision of the case in appeal, otherwise, the Court observe, the whole object of the appeal would frequently be entirely defeated; and should the Calcutta Court concur in this opinion, they will inform Mr. Begbie accordingly.

Extract of a letter from the Session Judge of Zillah Mynpoorie to the Register of the Western Provinces, dated 13th June, 1838.

Para. 1. By the desire of the magistrate of Mynpoorie I have the honor to submit the following question for the consideration and orders of the Court:

2. "Can a session judge on admitting an appeal in a summary suit under Regulation XV. of 1824, suspend the execution of the final orders of the magistrate or joint magistrate, before perusing the case?"

July 6th, 1838.

The Presidency Court, on the 3rd August, concurred in the above construction.

To the Judge of City Patna, dated 13th July, 1838.

No. 1158.
1819.
Reg. VII, Sec. 6.

I am directed by the Court to observe that in all cases in which it has been the intention of the legislature to render a summary decision subsidiary to a suit in the

civil courts, the regulations contain specific provision to that effect, as for instance, in cases coming under the provisions of Regulation XV. of 1824. No such provision is however made as regards cases of the nature of those specified in Section 6, Regulation VII. of 1819; and they are therefore of opinion that cases decided by the criminal authorities under the rules laid down in that Section are not open to a civil action. The civil court of course can have no power to issue an injunction to a magistrate for the purpose of stopping execution of his order.

The Western Court, on the 22d June, 1838, *concurred in this construction.*

July 13th, 1838.

No. 1159.
1814.
Reg. XXVI. Sec. 8, Cl. 2.

Held by the Calcutta Court, in concurrence with the Western Court, on a reference from the judge of Tirhoot, that agreeably to the provisions of Clause 2, Section 8, Regulation XXVI. 1814, petitions of appeal presented to the zillah judge against the decision of the principal sudder ameen, sudder ameen, and moonsiff, in original suits, do not require to be accompanied by a copy of the decree appealed from.

July 20th, 1838.

From the Register of the Western Provinces to the Register of the Presidency Court of Sudder Dewanny Adawlut, dated 27th July, 1838.

No. 1160.
1837.
Act XXV. Sec. 12.

I am directed by the Court to request that you will submit, for the consideration and opinion of the Calcutta Court, the accompanying copy of a letter from the judge of zillah Goruckpore, No. 170, under date the 19th instant, relative to Section 12, Act XXV. of 1837.

2. The Court observe, that the law does not require the confirmation of the zillah or city judge to the appointment by the subordinate judicial functionaries of his district of the ministerial officers of their respective courts, but merely declares that the appointment of those officers shall be made subject to the general control of the zillah and city judges and of the Court of Sudder Dewanny Adawlut; and they are, therefore, of opinion that, as stated in the 2d paragraph of your letter of the 17th November last, the interference of the district judges in such cases shall be exercised only with a view to prevent the appointment of improper persons, or the dismissal, without good and sufficient cause, of individuals already appointed.

From the Judge of Zillah Goruckpore to the Register of the Sudder Dewanny Adawlut, Western Provinces, dated 19th July, 1838.

With reference to Section 12, Act XXV. of 1837, I request the Court's opinion, whether by the words "general control" it is intended that the subordinate courts should obtain the sanction of the judge to the appointment or dismissal of their

ministerial officers, or whether they have the power of appointing and dismissing them without any reference to the judge.

2. It appears to me desirable that the point at issue should be clearly understood.

July 27th, 1838.

The Presidency Court, on the 17th August, 1838, concurred in the above construction.

From the Judge of Zillah Tirhoot to the Register of the Presidency Court of Sudder Dewanny Adawlut, dated 25th May, 1838.

No. 1161.

1829.
Reg. X. Secs. 14 & 15.

Permit me to solicit the construction of Sections 14 and 15, Regulation X. of 1829, by the Court of Sudder Dewanny Adawlut, on the following points :

1st. When a deed bearing an improper stamp is presented to a court, are the courts authorized to interfere, and direct that the parties shall procure it to be re-stamped under the provisions of Section 14, or is this entirely at the discretion of the party, in which the court *ought* not to give any assistance ?

2d. In the event of a deed requiring to be re-stamped, is it competent for any collector of any district, to receive the petition and to pass the order on reference to the commissioner ?—or does this pertain alone to the collector of revenue of the district and commissioner of the division in which the property is situated ?

3d. If the collector of the district and commissioner of the division in which the property affected is situated, decline to sanction the affixing the stamp, can the party move the collector and commissioner of a distant district and division, and in the event of a stamp being affixed under the authority of these last, shall that deed be held valid and good in the court of the district in which the property is situated ?

4th. If an improperly stamped deed shall have been filed, and if, in ignorance of the insufficiency of the stamp, a decree shall have been passed thereon by the court of first instance, and if on appeal the error is found out and the deed be declared invalid, and the first decree consequently shall be set aside, and if thereafter, the holder of the deed, after failing to obtain the sanction of the collector of the district and commissioner of his own division, shall procure a re-stamp through the interference and orders of the collector and commissioner of another district and division, and shall then re-tender the re-stamped deed in the court of special appeal, shall such re-stamped deed be filed and admitted or not ?

I beg to state that I consider a construction on these points necessary, because there would be no further appeal in this matter, and because the wording of the Sections appears to me to allow of two meanings.

To the Judge of Zillah Tirhoot, dated 3d August, 1838.

I am directed by the Court to communicate the following replies to your queries :

2. *Query 1st.*—A civil court is at liberty to instruct a party presenting a deed bearing an improper stamp, to apply to the revenue authorities for the purpose of having the proper stamp affixed.

3. *Query 2d.*—A deed is admissible as evidence in a court of justice upon which the proper stamp has been affixed under the orders of any commissioner of revenue, on the representation of any collector subordinate to his authority.

4. *Query 3d.*—It is not the province of the civil courts to decide upon the powers of the revenue officers in respect to each other; but if a deed when presented to a court bears the proper stamp, it should be received in evidence, without a question being admitted as to the competency of the authority by whose orders such stamp was affixed.

5. *Query 4th.*—A special appeal having been admitted, in a case originally decided on the evidence of a deed bearing an improper stamp, the decisions of both the lower courts should be set aside, and the court of first instance directed to restore the case to its original number on the file, and to proceed to dispose of it by allowing the plaintiff an opportunity of supplying the defect in his deed.

Issued in concurrence with two of the Judges of the Western Court.

August 3rd, 1838.

No. 1162.
1816.
Reg. XVII. Sec. 14, Cl. 1 & 2.

Held by the Calcutta Court, in concurrence with the Western Court, on a reference from the officiating session judge of Dinagepore, that the magistrate's proceedings regarding the escape of convicts should be submitted to the session judge under the provisions of Clause 1, Section 14, Regulation XVII. 1816, but that agreeably to the provisions of Clause 2 of the same Section, the escape of the convicts should be reported to the superintendent of police, and that measures for their apprehension should be taken by the magistrate in communication with that authority.

1837.
Act XXIV. Sec. 7.

2. It was further held that by Section 7, Act XXIV. 1837, the superintendent of police cannot exercise any authority over the guards of prisoners effecting their escape.

August 3rd, 1838.

From the Magistrate of Dinagepore to the Register of the Presidency Court of Nizamut Adawlut, dated 14th June, 1838.

No. 1163.
1819.
Reg. VII Sec. 4.
Rule regarding the evidence of the mother of an illegitimate child *quoad* the alleged father.

I have the honor of requesting the instructions of the Court, whether the evidence on oath of the mother of an illegitimate child, that such a person is the father of it, is sufficient to justify and require a magistrate to enforce Section 4 of Regulation VII. of 1819, against the asserted father who denies the fact, or whether other evidence is necessary.

2. I have occasionally in these cases directed the head men of the village in which both parties have resided, to appoint a punchait in the case; but this method of determining the case is always objectionable, when the mother and asserted father are of different caste.

To the Magistrate of Zillah Dinagepore, dated 3d August, 1838.

I am directed by the Court to inform you that the evidence of the mother of an illegitimate child, against the alleged father, is primâ facie good as far as it goes, but

should be sifted and weighed as any other testimony, and tested, as far as practicable, by any circumstantial evidence that may offer. The result must then depend on the belief or otherwise reposed in it by the magistrate.

The Western Court, on the 13*th July*, 1838, *concurred in this construction.*

August 3*d*, 1838.

From the Magistrate of Dinagepore to the Register of the Presidency Court of Sudder Nizamut Adawlut, dated 9*th May*, 1838.

No. 1164.
1824.
Reg. XV.

I have the honor of requesting to be informed whether a dispute between a zemindar and the proprietor of the bunkur of the same zemindaree is cognizable by a magistrate under Regulation XV. of 1824.

2. Although neither the preamble of the Regulation nor the Court's circular of the 17th December, 1830, relate to the point, it appears to me that the rights of each party being self-dependent, and there being no condition between them, it is the duty of the magistrate to decide their dispute summarily.

3. I have previously had cases before me in which patches of land for the sake of the wood growing on it have been a cause of dispute, and I have then on determining the possession of either party taken a recognizance that he would not cut down the trees until the expiration of a given time sufficient for the adversary to bring his case forward in the civil court; but in this case where it is not the land but the produce which is the cause of dispute, the party can scarcely be said to be in possession until he has the power over the produce.

4. I can find no definition of the word "bunkur" which explains what it may consist of, but the case which causes this reference is a dispute respecting the possession of some sal-trees growing not far from a ryot's house near a jungle. The Regulation requires that a decision should be given, but a decision on the possession of the forest tree which does not produce fruit or gum, or, if producing them, has never before been appropriated by any individual, must necessarily be influenced by the right of possession or the power to take possession from the time the tree first began to shoot; it consequently becomes necessary, before determining these cases, to be informed in what bunkur consists, and whether if forest trees are planted by the ryots of a zemindar, the proprietary right immediately becomes that of the zemindar or of the owner of the bunkur.

To the Magistrate of Zillah Dinagepore, dated 1*st June*, 1838.

The Court having had before them your letter No. 3, dated the 9th ultimo, direct me to request that you will state more particularly the nature of the grounds and the species of tenure, under which the respective parties claim the bunkur alluded to.

From the Magistrate of Zillah Dinagepore to the Register of the Presidency Court of Sudder Nizamut Adawlut, dated 16th June, 1838.

I have the honor to acknowledge the receipt of your letter No. 1564, dated 1st instant, and in reply to inform you that originally nearly the whole of this district belonged to one zemindar, and that it was all sold for arrears of revenue in the following manner.

2. Each pergunnah was divided into several lots, and the zemindar's right in the land of each lot was sold separately, and together with the last lot of each pergunnah the bunkur of the whole pergunnah was sold—the bunkur of the district having been assessed pergunnahwar, and there appearing to have been no knowledge, at the time that the property was thus subdivided, what share of the assessment should be apportioned to each lot?

3. One of the parties in the case before me is the zemindar of the estate on which the trees in dispute grow, and states that they do not come under the denomination of *bunkur*, and that he is in possession of them.

4. The estate in which the trees grow was not the last lot in the pergunnah sold, and the zemindar allows (and it is shewn by the records of the collector's office) that he has no right in any thing which is bunkur.

5. The other party is the zemindar of the last lot sold, and states that he is in possession of the bunkur of the whole pergunnah and of these trees as coming under the denomination of bunkur, and it appears by the records of the collector's office that he has the right to the bunkur of the whole pergunnah.

6. The only case which I have had before me with exactly similar grounds on which each party founded his claim, was a case in which plots of thatching grass were the subject of dispute. At the time I had no doubts of my ability to decide the point of possession, and gave it in favor of the zemindar; but the case was appealed, and I understand that my order was upset on the grounds of right and owing to a different construction of the word bunkur. And as I might have other cases before me in which it might be necessary to know what bunkur is, I applied for a definition of the term in my letter to the session judge, dated 7th July, 1837, a copy of which was forwarded to the Court of Nizamut Adawlut.

7. On receipt of my application the judge refrained from enforcing his order, and the case was afterwards disposed of in the civil court.

8. There is no doubt but that the present case also will be appealed, which ever way I decide it.

9. I take this opportunity of forwarding a copy of a letter addressed by me to the session judge of this district. The one party in the case to which it relates was in undisputed possession of eleven annas share of the estate, and stated himself to be in possession of the remainder. The other party stated himself to be in possession of the five annas share alone, but no division of lands had taken place.

10. I request to be informed whether a magistrate may decide a case in which the dispute is respecting possession of a part of an estate, first, if the contending party is

in undisputed possession of a share of the estate and claims the whole, and secondly, if the two contending parties claim possession of only a part of the whole.

To the Magistrate of Dinagepore, dated 10th August, 1838.

I am directed to communicate to you the opinion of the Court, that a dispute for possession of a bunkur is cognizable by the magistrate under the spirit of Section 3, Regulation XV. 1824, with reference to the preamble of that enactment.

2. With reference to the question submitted in the 10th paragraph of your letter No. 7 of the 16th June, the Court are of opinion that a magistrate is competent to try and summarily dispose of a case of the nature described, under the provisions of the abovementioned regulation.

The Western Court, on the 27th July, 1838, *concurred in this construction.*

August 10th, 1838.

From the Judge of Zillah Beerbhoom to the Register of the Presidency Court of Sudder Dewanny Adawlut, dated 26th May, 1838.

No. 1165.

Interference of the civil court with property attached by the collector, in execution of a summary award passed under Reg. VIII. 1831, or for the realization of the Government dues, under the circumstances of the case.

A question has arisen which I own I find it difficult to decide.

2. I request that you will lay this letter before the Sudder Dewanny Court.

3. In Regulation II. of 1805, Section 4, it is clearly stated that the summary enquiry and process authorized by the Regulation therein quoted shall not apply to any arrear of rent or other demand which may have been due more than a complete year before the delivery of the petition of arrest or application for such summary enquiry and process.

4. Acting upon this it has been the practice of this court, in the event of a farmer or zemindar, or other proprietor, having attached the property of a defaulting ryot, in executing a decree on that ryot, to release to the landholder the hal balance or the sum due for twelve months previous to the attachment and to pay the balance to the decree-holder, leaving the landholder to sue the ryot for the bukya or balance of former years in a regular suit.

5. A certain ghatwali mehal was attached by the collector of Beerbhoom some time since for a balance of revenue as well as by the orders of this court for the execution of a decree against the ghatwal.

6. A decree is now obtained in the moonsiff's court against a ryot in the above mehal, and his crops, &c. are attached by the decree-holder for his money and by the collector's attaching officer for a balance of revenue due from the same ryot.

7. Under these circumstances the collector requires the whole of the ryot's property to be sold to realize the balance of revenue, being a balance for four years from the ryot to the estate. But acting upon the practice above cited I issued orders to the moonsiff to sell the property, to give to the collector's officer the balance due for the twelve months preceding the attachment, and the remainder to the decree-holder.

8. The collector objects to this, and claims the balance of former years from the ryot, quoting the latter part of Section 4, Regulation II. of 1805 above cited, commencing with the orders "provided however," to the end of the paragraph.

9. Now in this quotation in the English Regulations it is clear that the collector as attaching officer can claim; but if so why should the explanation immediately above it distinctly declare the contrary, that is, if I am right in considering the attaching officer on the part of the collector to be *in loco* zemindar?

10. It is in this case of little consequence as the sum is small, but I cannot alter the practice which has prevailed for years in this court, and I believe generally, without express orders from the Sudder Dewanny Adawlut.

11. I have the honor to forward the proceedings on this subject as noted in the margin.*

* Proceedings of the judge, dated 26th March, 1838.
Proceedings of the collector, dated 16th April, 1838.

To the Judge of Zillah Beerbhoom, dated 17th August, 1838.

I am directed to observe that if the collector has attached the property of the ryot alluded to in your letter No. 92, dated 26th May last, in satisfaction of a summary award of his own court, his jurisdiction in summary suits being quite independent of that of the judge, and himself, in such cases, in no way subordinate to the authority of that officer, they do not see on what ground the judge could exercise any interference in the matter; while if the whole estate should have been placed under attachment, or kham management, with a view to the realization of the Government revenue, whether for former years, or the present, and the collections be made direct by the collector, or his officers, it does not appear to the Court how the judge could interfere either with the general management of the estate, or with the appropriation to the payment of the Government demand of the rent arising from it.

The Western Court, on the 20th July, 1838, concurred in this construction.

August 17th, 1838.

Lall Bee and Omeid Allee, Appellants,

versus

Mahomed Wassuck, representative of Maktool Beebee, deceased, Respondents.

From the Additional Judge of Zillah Chittagong to the Register of the Presidency Court of Sudder Dewanny Adawlut, dated 31st May, 1838.

No. 1166.
1810.
Reg. XIX.

I have the honor to submit, for the consideration of the Court, a copy of my proceedings in the above case, dated the 2d of September last, and of the collector of this district's reply, dated the 9th of January last. The Court will observe that the collector declines to sell Mouzah Undar Manick, the property of defendant's sureties, because it is a tenure appropriated for the support of a musjid, and he is of opinion that Regulation XIX. of 1810, does not authorize the sale of such property for the recovery of the amount of a decree, or on any other account.

2. May I solicit the Court's construction of the law in question? The case has been for many years pending and the decree is still unexecuted.

To the Additional Judge of Zillah Chittagong, dated 17th August, 1838.

I am directed to communicate to you the opinion of the Court, that "wuqf property" cannot be alienated, or diverted from the purposes for which such property was intended.

The Western Court, on the 20th July, 1838, *concurred in this construction.*

August 17th, 1838.

No. 1167.

1817. Reg XX. Sec. 19, Cl 16.

Under the circumstances stated in the annexed extract of a letter from the officiating magistrate of Benares to the session judge of that district, it was held by the Western Court, concurrently with the Calcutta Court, that a discretion must be considered to be vested in the magistrate to authorize the detention at the thannah of a party accused of a criminal offence, cognizable by the police, beyond the period specified in the 16th Clause of Section 19, Regulation XX. 1817, when the measure may appear to that officer absolutely necessary for the ends of justice, but that it should be exercised with great caution, and only on very strong grounds.

Extract of a Letter from the Acting Magistrate of Benares to the Session Judge of that City, dated 2d August, 1838.

Para. 2. An application was made to me by the magistrates of Arrah and Ghazeepore for the recovery of certain stolen property said to be in the house of the defendant Naraindoss, and on a search of his premises many articles were discovered. I therefore thought it absolutely necessary (till further enquiries should be made how far he was implicated) to keep the defendant under some restraint, both to prevent the possibility of his removing the remainder of the undiscovered property and also to prevent his escape should he be so disposed.

3. As the case was not connected with this zillah, his removal to the sudder station appeared to me an unnecessary piece of harshness, and I therefore directed that he should be kept under restraint at the thannah (though not in confinement) with the view of communicating further with the magistrate of Arrah on the subject of the identification of the property; and that no delay has occurred in doing so is apparent from that gentleman's reply accompanying the misl which was laid before you. The defendant has now however, according to the instructions conveyed in your proceeding of the 31st ultimo, been removed to the hajut tujveez.

4. It appears to me that the detention of the prisoner in this case was unavoidable, and that the Clause and Section of the Regulation quoted by you is meant to prohibit thannadars from confining individuals beyond forty-eight hours, but does not interdict a magistrate from using his discretion in detaining a prisoner at a thannah or elsewhere.

August 17th, 1838.

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local enquiries are entitled to their expenses.

judges are not entitled to any allowance for travelling expenses or other account in cases "in which, for their own satisfaction or at the request of the parties, they may deem it proper to visit and inspect the property in dispute, and to make enquiries in regard to it on the spot."

2. The Court however consider that those authorities are entitled to the payment of their expenses when deputed to make local enquiries by a superior court.

September 14*th*, 1838.

From the Session Judge of Zillah Hooghly to the Register of the Presidency Court of Nizamut Adawlut, dated 19*th July*, 1838.

No. 1173.
1837.
Act XIX.

Adverting to a case disposed of before this Court in March last, in which the prisoners, Hurchunder Mookerjea and Anund Poddar, have been convicted of participation in an embezzlement of 16,023 rupees and sentenced to imprisonment without reference to the Nizamut Adawlut, I have to bring to the notice of the Court, that the prisoner Motee Lal Dhur, referred to in the remarks which accompanied the monthly statements, has been committed to take his trial during the sessions for the present month; that I have had the case before me on the 17th and 18th instant; and that this day the prisoner, when put on his defence, averred, that the sum of money for which he has given receipts to the foujdaree nazir amounting to Company's rupees 7163, and with which sum he stands charged of having embezzled, form a part of the aggregate sum of 16,023 rupees and a much larger defalcation which has really taken place. He further represents that these different sums have been appropriated by the treasurer, and his brother Ramnaryne, who is his surety; and that large sums of money have been abstracted from the treasury, by the treasurer and his brother, in bank notes, which have been sent to the collector's office in payment of revenue; that this can be proved by an inspection of the challans of money paid to the collector and comparing the numbers of the notes taken from the treasury with those paid into the collector's office. Hurchunder Mookerjea, who is now undergoing his sentence of imprisonment, was the treasurer's and his brother's private servant; and the prisoner avers, that he is acquainted with the whole circumstances of the case and that he kept the treasurer's account books, which the magistrate has been directed to procure, and the prisoner wishes to have this individual examined for the defence.

2. My object in this communication is to request, that you will do me the favor of obtaining the opinion of the Court, whether the said Hurchunder Mookerjea is disqualified, by conviction, from giving evidence in this case. I apprehend that his evidence is inadmissible; but as the prisoner states that he has not any other evidence to prove the plea set up, I make this reference. In conclusion I beg to state that Hurchunder in his defence likewise averred that he took notes from the treasury to the collector's office in payment of revenue due from the treasurer.

To the Session Judge of Zillah Hooghly, dated 14*th September*, 1838.

I am directed to communicate to you the opinion of the Court, that under the provisions of Act XIX. of 1837 the evidence of the convict Hurchunder Mookerjea is admissible on the trial of the prisoner Moteelall Dhur, it resting of course with you to place such reliance on it as it may appear to deserve.

The Western Court, on the 24*th August*, 1838, *concurred in this construction.*

September 14*th*, 1838.

From the Officiating Session Judge of Zillah Dinagepore to the Register of the Presidency Court of Nizamut Adawlut, dated 10*th July*, 1838.

No. 1174.

A magistrate may refer a case of rape to the darogah for investigation.

The joint magistrate of Malda having referred a case of rape for investigation to a darogah, I have the honor to request the opinion of the Nizamut Adawlut as to whether a magistrate can legally refer a charge of rape for investigation to a police darogah.

2. Section 3, Regulation VII. 1811, clearly directs that "all complaints or prosecutions for misdemeanours or offences of the nature specified in the first part of clause second of the preceding section," (in which the crime of rape is included,) "shall be preferred in the first instance at the cutcheree of the magistrates;" and by Section 6, magistrates are strictly prohibited from referring to the police, for investigation and report, charges which by Section 2 those officers are or were prohibited from receiving; but the latter Section has been rescinded by Section 2, Regulation XX. 1817, while it is true, as stated by the joint magistrate, that in Section 12 of the latter enactment, specifying of what charges darogahs shall not take cognizance, the crime of "rape" is included.

To the Officiating Session Judge of Zillah Dinagepore, dated 21*st September*, 1838.

I am directed by the Court to observe that the offences in regard to which the cognizance of the police officers is excluded are enumerated in Clause 1, Section 12, Regulation XX. 1817, (rape not being included;) and the 1st Clause of the following Section provides for the mode of procedure by the police "on the receipt of any charge or information of murder, robbery, &c. or other heinous offence not excepted *by this regulation*" from their cognizance. The Court therefore consider that the joint magistrate did not act illegally in referring a case of rape to the darogah for investigation.

2. You are requested to furnish the joint magistrate with a copy of this letter for his information.

The Western Court, on the 31*st August*, 1838, *concurred in this construction.*

September 21*st*, 1838.

To the Judge of Zillah Shahabad, dated 21*st September*, 1838.

No. 1175.

The pay of a sepoy cannot be attached in satisfaction of a decree against him.

With reference to your letter No. 216, of the 24th July last, I am directed by the Court to inform you that the pay of a sepoy cannot be attached in liquidation of the amount of a decree against him.

2. The decree holder is of course at liberty to proceed against the person or property of the sepoy, as in any other case.

The Western Court, on the 31*st August*, 1838, *concurred in this construction.*

September 21*st*, 1838.

To the Session Judge of Zillah Tirhoot, dated 21*st September*, 1838.

No. 1176.

Police officers not authorized to levy fines on account of cattle trespassing.

I am directed by the Court to inform you that police officers are not authorized to levy fines on account of cattle trespassing.

The Western Court, on the 31*st August*, 1838, *concurred in this construction.*

September 21*st*, 1838.

From the Joint Magistrate of Malda to the Register of the Presidency Court of Nizamut Adawlut, dated 4th August, 1838.

No. 1177.

Wilful and designed prevarication punishable as a contempt of court.

I beg you will have the goodness to inform me whether, in the opinion of the Court, a magistrate is authorized to punish prevarication as a contempt of court, and if not, whether it amounts to any other misdemeanor punishable by a magistrate.

2. By prevarication, I mean shuffling from statement to statement, in spite of gross contradictions in which a witness involves himself. It appears to me that no contempt of court can well be more marked than that of a witness, who by saying and unsaying any answer which he delivers convicts himself of falsehood : and I should be glad to have the authority of the Court to adopt this construction.

To the Joint Magistrate of Malda, dated 5th October, 1838.

I am directed by the Court to observe that it may frequently be difficult to discriminate between perjury and wilful prevarication in a witness, and as much must necessarily depend upon the particular circumstances of each case, the Court do not consider it possible to lay down any general rule on the subject; where, however, the prevarication may not amount to perjury, as defined in the Regulations, but may have been clearly wilful and designed, they are of opinion that a discretion must be considered to be vested in the presiding authority to punish such prevarication as a contempt of court under the general rules applicable to that offence.

The Western Court, on the 14*th September*, 1838, *concurred in this construction.*

October 5*th*, 1838.

No. 1178.

1834
Reg. II. Sec. 3, Cl. 1

On conviction of privity to burglary, the labor is commutable to fine.

Held by the two Courts of Nizamut Adawlut that, as privity to burglary is not included amongst the exceptions contained in Clause 1, Section 3, Regulation II. 1834, in cases of conviction for that offence, when the crime may not amount to more than simple privity, the penalty of labor must be held to be commutable to a fine.

Calcutta Court, 7th September—Western Court, 5th October, 1838.

1179.
12 October, 1838.

From the Register of the Western Provinces to the Register of the Presidency Court of Sudder Dewanny Adawlut, dated 12th October, 1838.

No. 1179.
1806.
Reg. XVII. Sec. 8.
Cir. Order No. 37.
July 22, 1813.

I am directed to request that you will submit the following point of law, arising out of a case now pending before the Court, for the consideration and opinion of the Calcutta Court.

2. The circumstances of the case, in which the present reference originated, are briefly as follows. An application having been presented to a zillah judge for the foreclosure of a mortgage and conditional sale, the usual notice, prescribed in Section 8, Regulation XVII. of 1806, was ordered to be served on the alleged mortgager, who, on receiving the same, gave in a petition to the judge, representing that the deed of mortgage stated to have been executed by him, and on which the motion of the opposite party was founded, was a forgery, and praying enquiry. The judge, on inspecting the deed, seeing reason to question its genuineness, directed the immediate apprehension and confinement in jail of the persons by whom it was filed, as well as of several others, whom he suspected of having been concerned in, or privy to the alleged forgery, including amongst the rest the cazee of one of the pergunnahs of his district, who had attested the deed, and one of the mohurrirs of his office, who had charge of the papers with which it was filed, and whom he considered to have aided in the forgery while those papers were in his possession; he then proceeded to enquire into the forgery, but had not closed his proceedings when the case was brought before the Court in appeal.

3. The question that now arises for consideration is, whether it was competent to the judge, with reference to the circumstances under which the case was pending before him, to enter into a formal investigation of the alleged forgery, which necessarily involved the determination of the validity or otherwise of the deed, with a view to pronounce a judicial opinion on that point, and to found such ulterior proceedings thereon as might appear proper, or whether he should not have confined his enquiries to ascertaining whether any of the officers under his control, sudder or mofussil, had been guilty of any neglect, or other misconduct in the matter, leaving the party, who alleged the deed to be a forgery, to have recourse to such means as were open to him under the Regulations, to establish the same, and the question of the genuineness or otherwise of the deed to be determined, so far as the civil court was concerned, in a regular suit in the usual manner.

4. The Court are of the latter opinion. They observe that the duty of the zillah and city judges, in cases coming under the Section of the Regulation above quoted, is expressly declared in the circular orders of the 22d July, 1813, to be purely ministerial, so far as relates to the purchaser, leaving them nothing to do but to cause the prescribed notice to be served on the seller, and to receive and pay over to the purchaser, if desirous of receiving the same, whatever money may be paid in by the seller, or if the purchaser should refuse to accept it, to restore it to the seller; and as such cases cannot therefore be considered to be pending judicially before the civil courts, they are not competent, in the opinion of the Court, to entertain and enquire into any pleas of the nature of those urged by the mortgager and conditional seller in the present case, at the stage and in the manner

in which they were brought forward by him; and they propose, therefore, should the Calcutta Court concur in this view, to act upon it in disposing of the case now before them.

October 12*th*, 1838.

To the Register of the Sudder Dewanny Adawlut for the Western Provinces, dated 2d November, 1838.

I am directed by the Court to acknowledge the receipt of your letter No. 1403, of the 12th ultimo, and to state in reply that they concur in the view taken by the judges of the Western Court of the measures which the zillah judge should have adopted under the circumstances of the case referred to, and that it was not competent to the judge to entertain and enquire into any pleas of the nature of those urged by the mortgager and conditional seller, at the stage and in the manner in which they were brought forward by him.

No. 1180.

A prisoner having been acquitted of the specific charge on which he was tried, the session judge is competent to direct an enquiry into his character as a preliminary to the call for security.

The magistrate of Dinagepore, having doubted the competency of the session judge to direct an enquiry into the character of a prisoner acquitted of the specific charge on which he was tried, the following letter was written in reply to the reference made to the Calcutta Court, the Western Court concurring.

To the Session Judge of Zillah Dinagepore, dated 19*th October*, 1838.

I am directed by the Court to observe that construction No. 823 of the printed constructions, decides the question of the competency of the session judge to call for security from any person acquitted by him of the specific charge on which he may have been tried: and the Court are of opinion that he is equally competent to direct the investigation into character as a preliminary to the call for the security.

October 19*th*, 1838.

To the Judge of Zillah Beerbhoom, dated 26*th October*, 1838.

No. 1181.

It is competent to the civil court to stay the sale of property about to be sold in execution of the collector's summary award, on the motion of a third party claiming it, he having instituted a regular suit for it.

I am desired to communicate to you the opinion of the Court that in cases of the contemplated sale of property in execution of a summary award given by the collector it is competent to the civil court, on the motion of a third party claiming the property ordered to be sold, to stay the sale pending the result of a regular suit instituted by such party to establish his claim.

The Western Court concurred in this construction.

October 26*th*, 1838.

No. 1182.

Principal and interest of a debt must

Held by the Calcutta Court in concurrence with the Western Court, on a reference from the judge of zillah Jessore, that a person suing for the principal of a debt in a court,

which he knows is not competent to adjudge a larger amount, without at the same time claiming interest, must be presumed to have relinquished his claim to interest. It was further held that in such a case, the plaintiff cannot institute a second suit to recover the interest after having obtained a decree for the principal; as this would amount to splitting the cause of action to render the suit cognizable by a particular court of inferior jurisdiction, which is opposed to the practice of the courts.

be sued for together, in courts of limited jurisdiction, or the claim to interest must be foregone.

November 2d, 1838.

From the Officiating Session Judge of Zillah Dacca to the Register of the Presidency Court of Nizamut Adawlut, dated 8th August, 1838.

No. 1183.
1834.
Reg. II. Sec. 2, Cl. 2.

An instance having occurred, of a person being sentenced, under Regulation IX. of 1807, to six months' imprisonment, for a theft of forty-one rupees, and to one year's imprisonment, in lieu of corporal punishment, under Regulation II. of 1834, I address the Court for the following reason.

2. I consider when the law only allows a magistrate to award a punishment of six months' imprisonment, he should not award, in lieu of stripes, more than another six months. I will therefore, if the Court sanction it, address the magistrate and joint magistrate under my authority on the subject.

To the Officiating Session Judge of Zillah Dacca, dated 9th November, 1838.

I am directed by the Court to communicate to you their opinion that the sentence of one year's imprisonment, in lieu of corporal punishment, in addition to six months' imprisonment, passed by the magistrate, is not illegal under the wording of Clause 2, Section 2, Regulation II. of 1834.

The Western Court, on the 12th October, 1838, *concurred in this construction.*

November 9th, 1838.

To the Magistrate of Zillah Behar, dated 9th November, 1838.

No. 1184.
1818.
Reg XII. Sec. 5.
1834.
Reg. II. Sec. 2.

I am directed to communicate to you the opinion of the Court, that a magistrate is competent, under the provisions of Section 2, Regulation II. 1834, to award imprisonment for a period of one year in lieu of corporal punishment, in addition to the term he is authorized to award under the 5th Section of Regulation XII. 1818, in the case of a prisoner making his escape while undergoing a sentence of imprisonment under a previous conviction.

The Western Court, on the 12th October, 1838, *concurred in this construction.*

November 9th, 1838.

To the Officiating Session Judge of Dinagepore, dated 9th November, 1838.

No. 1185.

A sudder ameen is not entitled to appeal from the decision of the magistrate in a case originally decided by the former.

I am directed by the Court to communicate to you their opinion, that they do not consider a sudder ameen entitled to appeal from the decision passed by the magistrate in a case originally investigated by the former, the right of appeal possessed by the dissatisfied party being sufficient for the ends of justice.

The Western Court, on the 19th October, 1838, concurred in this construction.

November 19th, 1838.

Extract of a Letter from the Judge of Zillah Mymensingh, under date the 4th September, 1838.

No. 1186.

A pauper decree-holder should be put in possession of the property decreed to him, by a Government officer, the cost being made chargeable to the party cast.

Para. 1. May I request of you to obtain the Superior Court's opinion on the following question?

2. Is a person who sues *in formâ pauperis* and obtains a decree, to be put in possession of the property decreed (i. e. land or houses) by means of the officers of the court, and free of expense to him, though the cost may be recoverable afterwards from the losing party or defendant; or is he to be considered liable for the expenses of an ameen or other person employed to give him possession?

To the Judge of Zillah Mymensingh, dated 16th November, 1838.

I am directed to communicate to you the opinion of the Court that a pauper decree-holder should be put in possession of the property decreed to him, by a Government officer, the cost being made chargeable to the party cast.

The Western Court, on the 2d November, 1838, concurred in this construction.

November 16th, 1838.

To the Judge of Futtehpore, dated 30th November, 1838.

No. 1187.

A decree-holder purchasing property sold in satisfaction of his decree, may, under certain circumstances, be permitted to give his receipt for the amount of his claim, in payment of so much of the purchase money.

The Court have again had before them your letter No. 33, under date the 30th June last, requesting their opinion as to whether the civil courts are competent to allow a decree-holder, purchasing property sold in satisfaction of his decree, to file his receipt to the extent of the sum awarded him, in lieu of paying the whole amount of purchase money into court.

2. In reply I am directed to inform you that a decree-holder should be permitted, under the circumstances above stated, to give his receipt for the amount of his claim in payment of so much of the purchase money, provided the arrangement do not interfere with equal claims of other parties, and that, as respects the delivery of possession of the property sold, the same rules are observed in regard to him as would be applied to any other purchaser, and provided also that where the property sold may be land paying revenue to Government, the demands of Government on the estate are previously satisfied.

The Presidency Court concurred in this construction.

November 30th, 1838.

1188.
7 December, 1838.

From the Register of the Western Provinces to the Register of the Presidency Court of Nizamut Adawlut, dated 7th December, 1838.

No. 1188.
1806.
Reg. XI Sec. 8.
1820.
Reg. III.

I am directed by the Court to request that you will submit, for the consideration of the Calcutta Court, the accompanying copies of correspondence noted in the margin,* which has taken place with the session judge and the magistrate of zillah Furruckabad on the subject of Section 8, Regulation XI. of 1806, under which the local officers of police are required to afford assistance, to a certain extent, to travellers, whether European or native, who may be proceeding through their jurisdictions, in procuring the means of prosecuting their journey.

* Letter from session judge of Furruckabad, dated 9th October, 1838, with its enclosure.
Court's reply dated 19th October, 1838
Letter from session judge of Furruckabad, dated 3d November, 1838, with its enclosure.

2. The Court observe, that there is little if any essential difference between the terms of the Section under consideration, and those of Sections 2 and 3 of the same Regulation, which relate to the provision of carriage for troops on the line of march, and in regard to which, so far as they are aware, no doubt has ever been entertained of the rules therein laid down applying equally to a detachment of troops, or a single corps, setting out upon a march, as to one actually *en route*; in fact were that not the case, it would frequently be impossible for a corps to commence its march, to the serious injury of the public service; and they are of opinion therefore that the same principle must be considered equally applicable to a military officer, travelling from one station to another, though not commanding nor proceeding with a corps or detachment of troops, or to any other of the persons described in Section 8, subject to the modification contained in Regulation III. of 1820, which prohibits the compulsory exaction of the services of individuals as porters or coolies in aid either of travellers or marching troops, and that consequently the local officers of police, whether the application for carriage be made to them direct, or to the magistrate, and forwarded by him to them for enforcement, are required to provide the same to the extent of the available number of carts and bullocks, not exclusively appropriated to the purposes of agriculture, and occasionally let for hire, which can be procured within their jurisdiction, that being the only limit laid down in the section in question.

3. With regard to the 10th and 11th paragraphs of Mr. Robinson's letter of the 30th October last, the Court are of opinion that the latter part of the section under consideration, contains a sufficiently general rule for the guidance of the officers therein mentioned, in acting upon which they must exercise their own discretion, taking care, of course, to keep within the law, and leaving any party, who may consider himself aggrieved by their proceedings, to seek redress in the usual manner.

4. At the same time the Court entirely concur with Mr. Robinson as to the illegality and otherwise highly objectionable and improper nature of the practice, referred to by him, of having recourse to personal violence to compel individuals to sell their goods at certain fixed prices, or to serve as boatmen or bearers; and they propose to direct him

strictly to prohibit the practice in his district, if found to exist, for the future, desiring his police officers to adopt the course suggested in the latter part of the 10th paragraph of his letter, above quoted, of reporting for such orders, as he may deem proper, any instance of the refusal of individuals to supply travellers with provisions or other articles, furnished under the rule laid down in Section 8, Regulation XI. of 1806, at a reasonable price, or to receive a fair rate of hire for their own services or those of their carts or bullocks.

From the Session Judge of Furruckabad to the Register of the Nizamut Adawlut, Western Provinces, dated 9th October, 1838.

I have the honor to submit a reference from the magistrate of Furruckabad, dated the 8th instant, on the subject of carriage. Mr. Robinson wishes to be informed whether it be legal for a magistrate to press carriage. Regulation III. of 1820 declared the practice of pressing coolies illegal; the Court of Nizamut Adawlut, under date the 5th May, 1820, (construction No. 314) ruled that the rules of Regulation XI. 1806, stand as they were with exception to the prohibition provided in Regulation III. 1820; under the provisions of Section 8, Regulation XI. of 1806, it is ruled the local police officers *should furnish* carts or bullocks required by troops or other person either in the public service or on private affairs, provided such carts or bullocks, not kept for private use, or exclusively appropriated to the purpose of agriculture, but for hire, can be procured within his jurisdiction. It is also ruled that persons in charge of carts and bullocks so provided shall be *at liberty* to return from the first police station in the next zillah unless they *voluntarily agree to proceed further*. It is evident therefore that it is legal for the magistrate to press carriage for the service of troops or other person on the public service or on his private affairs, who may stand in need of assistance to enable him to prosecute a journey, provided a sufficient number of carts and bullocks, not exclusively appropriated to the purpose of agriculture, and occasionally let for hire, can be procured in his jurisdiction. But, as the construction of a Regulation is vested in the Sudder Court, I submit Mr. Robinson's reference for consideration and orders.

From the Magistrate of Furruckabad to the Session Judge of his District, dated 8th October, 1838.

Several applications having been made to me at different times by various civil and military officers employed on civil duties, to procure carriage for them when proceeding on duty or on their private affairs, I beg to know whether in my magisterial capacity I have either of my own, or on application being made from the collector's department authority to press carriage and cattle on that requisition.

I do not allude in this case at all to the provisions of Regulation XI. of 1806, Section 8, which apply to travellers requiring assistance *en rout* from local police officers

But I wish to be informed whether or not it be legal for me as magistrate, to *press* carriage for the service of any private or public person, saving and excepting troops marching, on regular indent signed by the commanding officer.

I cannot find in the Regulations a trace of any such power, the exercise of which constitutes a most harsh and grinding oppression on a hard working class of men, and often seriously interferes, even to ruin, with the prospect of the trader.

But as I know the practice to be by no means uncommon, and I find my refusals to comply with requisitions of the nature above described, expose me to much, in my opinion, of unmerited obloquy and ill-will, I must request the favor of your submitting the point to the Sudder for their opinion and orders.

To take the narrowest view of the subject, if such requisitions are to be enforced on the ground of expediency, which is the only plea I have seen advanced in their favor, I submit that they should at least be as strictly limited, and regulated with as much care as similar requisitions in the Military Department.

From the Register of the Western Provinces to the Session Judge of Furruckabad, dated 19th October, 1838.

The Court have had before them your letter No. 263 under date the 9th instant, with its enclosure from the magistrate of Furruckabad, representing that several applications have been made to him, at different times, by various civil and military officers employed on civil duties, to procure carriage for them when proceeding on duty or on their private affairs, and requesting the opinion of the Court whether it is competent to him of his own authority, or on application being made from the collector's department, to press carriage and cattle on such requisitions.

2. In reply I am directed to observe that in making the present reference neither you nor Mr. Robinson would appear to have adverted to the Court's circular orders of the 25th November, 1836, No. 23, to which, therefore, I am desired to refer you, as well as to the latter part of the letter addressed by order of the Court under date the 5th May, 1820, to the magistrate of Juanpore, which expressly declares, that with exception to the compulsory exaction of the service of individuals as porters or coolies, in aid of travellers or marching troops, which has been prohibited by Regulation III. of 1820, the rules of Regulation XI. of 1806, remain as before, and to request that, if upon an attentive consideration of the orders and Regulations above mentioned, Mr. Robinson should still entertain any doubts on the subject, he will state the grounds of them more fully, and specify the particular point or points on which he may be desirous of obtaining the opinion of the Court, as well as the Regulations which he considers to be involved in their determination.

From the Session Judge of Furruckabad to the Register of the Nizamut Adawlut for the Western Provinces, dated 3d November, 1838.

I have the honor to forward herewith copy of a further communication, bearing date the 30th ultimo, from the magistrate of Furruckabad on the subject of pressing carriage.

From the Magistrate of Furruckabad to the Session Judge of his District, dated 30th October, 1838.

I have the honor to acknowledge the receipt of your letter, No. 282 of the 27th instant, with its enclosures.

2. My reference was on the subject of carriage.

3. I believe I had better set forth in the first instance my construction of the 8th Section of Regulation XI. of 1806.

4. I conceive then that the provision applies only to *travellers*, and authorizes the police to aid them only in so for as is necessary to replace their carriage, if it should fail them *en route;* and that the persons authorized and required to aid them are the nearest thannadars, jemadars and burkundazes, whom I understand to be indicated by the words *local* officers, and not the magistrates, and that the amount of assistance is limited to that which shall enable travellers to prosecute their route.

5. And I conceive that the police are not authorized to *press* bullocks and carts, for the word "*compel*" in the Section is restricted to bearers and boatmen, and therefore, that the duty of the police, as far as relates to carriage, is to use their best influence to induce the owners of carts to supply the wants of travellers, but not to employ force for that purpose.

6. The words of the Regulation I think mark this distinction very clearly, the boatmen and bearers are certainly not to be "*compelled*," and in the next member of the sentence, carriage of a certain description is not to be "furnished," and the compulsory power of the local police officers is conferred by the inference, that if they are *not* to compel persons not being ordinarily boatmen and bearers, they *may compel persons who are ordinary boatmen and bearers;* for without this inference, there is no direct authority for using force. The word "aid" used directly in the beginning of the Section cannot certainly be interpreted by itself as giving a power to press. The word "furnish" as applied to carriage admits of no inference that in other cases force may be used, because "furnish" conveys no notion of compulsion.

7. And certainly it appears to me the duty of legal authorities, in construing a doubtful passage of a law founded on expediency, and interfering with the natural right of all subjects to dispose as they please of their own property and labor, to give of two otherwise equally balanced constructions, that which is most favorable to the classes injuriously affected by such law.

8. But let this point be decided how it may, neither the Section nor the interpretation bear upon the point on which I call for instruction. I shall perhaps make my meaning clearer by giving specimens of the kind of applications which are continually addressed to me, and which I hold I am bound to refuse to comply with whenever that compliance may involve the necessity of seizure, or (to put the case more strongly) which I am not bound to comply with at all.

1st. The commissioner of the district requires ten hackeries to proceed on his circuit, and desires the magistrate to furnish them.

2d. The officer conducting surveys applies to the collector for fifteen hackeries to enable him to proceed from pergunnah A. to pergunnah B., and the collector applies to the magistrate to seize them as he cannot procure them through his influence.

3d. A military officer requires two hackeries to march with in order to join his corps at another station, and the same number to convoy his family to station A. and desires the magistrate to furnish them.

4th. A civil officer requires thirty hackeries to transport his goods and records to his proper station.

5th. A European merchant arrives at the station by boat and requires sixteen hackeries to transport his goods to station B., and desires the magistrate to supply them.

All the above cases are facts.

9. These are the kinds of cases to which I particularly refer, and in which I maintain that the magistrate has no right to seize carriage; and to sum up the whole question, I would ask whether there be any objection to the issue of the following construction:

"That no person *whatever*, excepting officers commanding or proceeding with a corps, "or a detachment of a corps, is authorized to make any requisition on a magistrate for "the supply of carriage; that the provisions of Section 8, Regulation XI. of 1806, "relate only to travellers during their route; that the amount of aid to be furnished "by the police officers is limited thereby to what is absolutely necessary to enable such "travellers to prosecute their journey; and that though the police officers are bound "to use their best influence to procure the requisite bullocks or carts, they are not "authorised to press them."

10. There is another point which, though unconnected with the reference I have made, I will take this opportunity to submit to the Sudder Nizamut Adawlut, and that is, what are the means by which the police are to compel the services of boatmen and bearers in the event of the recusance? The means now used are personal violence, even to the extent of beating, regulated in its severity by the caprice of the local police officers. I doubt not that the Sudder will pronounce that the course of the police officers is to refrain from such reprehensible measures, and to report all cases of recusancy to the magistrate.

11. In the same way when any person refuses to sell, at the price fixed by the police, supplies of food, it is customary to seize them by force, inflicting personal violence where resistance is made by the owners. It appears to me that this mode of proceeding is utterly illegal, inasmuch as the Regulation contains no authority for the police officers to *compel* any person to sell food or other articles. They are merely directed to aid the traveller in procuring objects required.

12. I will venture to trouble the Sudder for their opinion on these two last points in addition to the reference I formerly made.

13. The circular order to which the Court call my attention relates to the supply of carriage to troops when moving on duty, and on that subject leaves nothing, as far as I see, doubtful or deficient.

The Calcutta Court concurred, 28th December, 1838.

No. 1189.

1811. Reg VII. Sec. 5.

Held by the Calcutta Court, in concurrence with the Western Court, on a reference from the commissioner of the 19th division, that a person preferring a false and malicious complaint before the darogah, but not sworn to the truth thereof, is not liable to punishment under the provisions of Section 5, Regulation VII. 1811.

December 14th, 1838.

No. 1190.

Costs of suit not to be added to the original amount of action, in cases of appeal.

Held by the Calcutta Court, in concurrence with the Western Court, on a reference from the judge of Sylhet, that the practice of estimating the value of the property claimed, in appeal, by adding the costs of suit to the original amount, is improper.

December 14th, 1838.

No. 1191.

1814. Reg. XXVI. Sec. 12.

Held by the Calcutta Court, in concurrence with the Western Court, that Section 12, Regulation XXVI. 1814, is not applicable to cases of appeals, but only to original suits.

December 14th, 1838.

Extract of a letter from the Register of the Western Court to the Register of the Calcutta Court, dated 21st December, 1838.

No. 1192.

1822. Reg. XI. Sec. 38. Cir. Order No. 206, vol. II.

3. The Court observe, however, that in all cases, in which the collector may be made a party in his official capacity, whether against law or not, he must on being served with the prescribed notice, either defend the suit in the usual manner, whatever may be the nature of the plea that he may put in, either denying the jurisdiction, or otherwise, or take the consequences of allowing the cause to be tried *exparte;* and they are of opinion that where, in the former case, he may file his answer through the Government vakeel, the court trying the suit, on nonsuiting the plaintiff's claim with costs, as required by the law above cited, should proceed, as in all other cases, to order the payment of the Government vakeel's fees in the first instance by the collector on the part of Government, leaving him ultimately to recover the amount, in the usual manner, from the party declared liable for the same.

The Presidency Court, on the 18th January, 1839, *concurred in this construction.*

No. 1193.

Mode of proceeding when the collector may not conform to the orders of the native judges.

Held by the Western Court, in concurrence with the Calcutta Court, on a reference from the judge of Furruckabad, that it would be objectionable to allow the native judicial functionaries to exercise, at their discretion, the power of imposing fines on the collectors of

their respective districts for not conforming to the orders of their court; and that their proper course, where their orders are not carried into effect, is to report the particular circumstances of each case, as it may arise, to the judge, leaving that officer to take such steps in the matter as he may deem pro[illegible] consistently with the regulations.

December 21st, 1838.

To the Judge of Zillah Tipperah, dated 28th December, 1838.

No. 1194.
1793.
Reg. XLV. Sec. 12.

I am directed by the Court to inform you that the rule laid down in Section 12, Regulation XLV. 1793, regarding the adjustment of the jumma, is applicable only to portions of estates paying revenue to Government directly, and not to shikmee or dependent talooks, the rent of which, payable to the zemindar, is disputed between him and the proprietor of the under tenure. The Court therefore see nothing illegal in the order of the commissioner to the collector (referred to by you) for the omission of the jumma in the sale papers prepared by the latter officer.

The Western Court concurred in this construction.

December 28th, 1838.

No. 1195.
Rule regarding demand of security in addition to a specific sentence in a criminal trial.

Held on a reference from the commissioner of the 12th division, that it is not competent to a court of sessions to add a demand of security to a specific sentence passed on a prisoner committed for trial, or to whom a specific punishment has been adjudged on a regular trial by a magistrate.*

Western Court, 16th December, 1836.

Calcutta Court, 17th March, 1837.

Extract from a letter to the Judge of Mymensing, dated 18th November, 1836.

No. 1196.
1806.
Reg. II. Sec. 11.

Para. 2. The provisions of Section 11, Regulation II. 1806, are intended, as appears from the preamble thereof, solely for the relief of insolvent debtors who may be in confinement; consequently Mr. ———— not being in confinement, cannot be relieved from his present difficulties under that Section.

3. Section 10 of this Regulation however expressly provides, that "when no property shall be pointed out from which the judgment can be enforced, and the party against whom it is passed, may be willing to engage for the liquidation of the amount due by instalments, it shall be competent to the court to accept the engagement so offered, and to cause execution of the decree in conformity therewith, as long as the conditions of it shall be duly fulfilled." The previous confinement of the debtor is not necessary in this case; for the Section provides that "if the person delivering the accepted engagement shall have been taken into custody, he shall be immediately released."

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* This and the following constructions were omitted in their proper places.

5. In conclusion I am directed to inform you that under the existing regulations none of the civil courts have the power of granting a general release to a debtor, and that the Government and private individuals are on precisely the same footing in regard to the realization of debts from the property of released insolvents; for the private creditor, under Section 11, Regulation II. 1806, may at any time after the release of the debtor bring to sale any property which may subsequently be found in the possession of the latter.

The Western Court concurred, 26th August, 1836.

From the Register of the Presidency Court of Nizamut Adawlut to the Register of the Western Provinces, dated 4th January, 1839.

No. 1197.
1816.
Reg. XVII. Sec. 13.
1837.
Act XXIV.
Secs. 2 and 7.
1829.
Reg. I. 1829, Sec. 3.

A question having arisen in this Court as to the authority through whom the magistrates are required to correspond, in matters relating to the strength and expence of the jail establishments, I am directed to request that you will submit the same for the consideration and opinion of the judges of the Western Court.

2d. By Section 7, Act XXIV. of 1837, the session judges are vested with the same control and superintendence over every jail under the management of any zillah or city magistrate, or joint magistrate, subject to his jurisdiction, and over the officers of every such jail as may have been exercised by the commissioner of circuit, under the provisions of Section 3, Regulation I. 1829, or of any subsequent enactments. The rules here referred to, in no way relate to the strength and expence of the jail establishments; and the Court are therefore of opinion that the correspondence in such matters must still be conducted through the office of the superintendent of police, under the provisions of Section 13, Regulation XVII. 1816, and Section 2, Act XXIV. 1837.

The Western Court concurred, 18th January, 1839.

No. 1198.
1837.
Act XXIV. Sec. 7.

Held by the Western Court, in concurrence with the Calcutta Court, that a session judge is vested with the control and superintendence of the jail of the district at which his court may be held, as well as of any district that may be subject to his jurisdiction.

Western Court, 11th January, 1839.

Calcutta Court, 25th January, 1839.

From the Register of the Western Provinces to the Register of the Presidency Court of Nizamut Adawlut, under date the 18th January, 1839.

No. 1199.
1811.
Reg. VII. Sec. 3.
1817.
Reg. XVII.
Sec. 6, Cl. 4.

I am directed to request that you will submit the following case, involving a construction of Section 3, Regulation VII. of 1811, and Clause 4, Section 6, Regulation XVII. of 1817, which is now depending before the Court, for the opinion of the Calcutta Court.

2. A prisoner on his trial before the magistrate for the murder of his wife, having pleaded in his defence, and as the motive by which he was impelled to the act charged against him, that an improper intimacy existed between the deceased and the landlord of

the house in which they resided, the magistrate judged it proper to make enquiry into this fact; he, at the same time, directed the evidence of the prisoner to be taken on oath in regard to the charge of adultery advanced by him, and that the investigation into that charge should form a separate and distinct case.

3. The prisoner in his examination on oath before the magistrate, positively swore to the commission of adultery between his wife and the alleged paramour of her guilt, and distinctly charged the latter with that offence, naming his witnesses, whose evidence he prayed might be taken, and that the accused might be visited with proper punishment. The persons indicated by him were accordingly summoned; and their evidence, as well as the result of the enquiries instituted by the magistrate, tending to confirm the prisoner's statement, the accused was committed to take his trial before the session judge on the prosecution of the prisoner for the adultery with the prisoner's wife, and, having been tried and found guilty by that officer on such prosecution, was sentenced to a term of imprisonment.

صرف بهکم بهت کي بدکاري کرني سي هم نے
اپني جورو کون مارا هي گواه اس بات
کي که بهکم بهت نے هماري جوروسي بدکاري
کياتها دو سالي اور اوسي کي جورو اور
چکريان برهمن و وجنبو ناکر هينگي دعوي
بدکاري کرني هماري جوروسي بهکم بهت
رکهتي هين اميدوار هين که طلبي گواهان
مذکورهٔ بالا کي هوکي بعد تحقيقات کي
تدارک مدعاعليه کا هووي

4. The question that now arises is, whether, the charge of the prisoner against the alleged paramour of his wife for adultery not having been preferred by petition, it was competent to the magistrate to institute any enquiries into the fact of the adultery with a view to found thereon a criminal prosecution against the accused and to commit him for trial before the court of sessions; and whether the session judge was authorized in proceeding with the trial of the commitment for adultery made under the circumstances above stated; or whether the absence of such petition does not vitiate the whole of the proceedings both of the magistrate and of the session judge.

5. Mr. Lambert, before whom the case first came, is of opinion that, under the terms of Section 3, Regulation VII. of 1811, it is imperatively required in all cases of adultery the charge should be preferred to the magistrate by petition in the usual form; and looking upon the absence of such petition in the instance in question, as fatal to the legality of the trial, he would quash the whole of the proceedings as well of the magistrate as of the session judge, and order the release of the prisoner, leaving the prosecutor, should he think proper, now to prefer his charge in the manner above stated.

6. The other judges on the other hand, adverting to the object of Regulation VII. of 1811, as expressed in the preamble, viz. to restrict the officers of police from taking cognizance of certain offences, including adultery, which object, they observe, has not in any way been defeated by the course pursued in the present instance, and to the circumstance of the prosecution before the session judge having been on the part of the husband,

which is all that is required by Clause 4, Section 6, Regulation XVII. of 1817, are of opinion that the omission above noticed is not of itself sufficient to vitiate the trial; and they would therefore proceed to dispose of the case on the merits. On this point the opinion of the Calcutta Court is requested.

The Calcutta Court concurred with the majority of the Western Court, 1st February, 1839.

No. 1200.
1813
Reg. II.

Held on a reference from the session judge of Behar that the case of a peon, on the establishment of a Government functionary, making away with money entrusted to, or collected by him, does not come within the meaning of Regulation II. 1813; and that such offences are to be considered as misdemeanors, and punishable as such under the general regulations.

Calcutta Court, 18th January, 1839.

Western Court, 1st February, 1839.

No. 1201.
1822.
Regulation XI.
Sec 15.
A bidder who has been fined by a collector cannot institute a regular suit against that authority in the civil court to obtain a refund of the fine.

Held on a reference from the judge of Sylhet that a bidder at a public sale who has been fined by a collector, cannot institute a regular suit against that authority in the civil court to obtain a return of the fine, supposing it to have been levied by distress or otherwise.

Calcutta Court, 15th February, 1839.

Western Court, 8th March, 1839.

No. 1202.
1793.
Regulation XLIX.
1837.
Act XXV. Sec. 8.
1798.
Reg. V. Sec. 7.

Held on a reference from the judge of Mymensing that under the provisions of Section 8, Act XXV. of 1837, an appeal lies to the zillah judge from the decision of a principal sudder ameen in a case under Regulation XLIX. 1793.

Held further that a case of this nature is appealable to the zillah judge on its merits; and not merely on the point of relevancy of the regulation to the summary suit, under the restriction laid down in Section 7, Regulation V. 1798.

Calcutta Court, 15th February, 1839.

Western Court, 8th March, 1839.

To the Session Judge of Mymensing.

No. 1203.
Rule regarding the examination on the part of the prosecution of a witness summoned on the part of the defence, but whom at the trial the prisoner declined to call.

With reference to the trial of the prisoner Amanut Khan, referred with your letter of the 31st January last, I am directed to observe that as the prisoner objected to examining his own witness Ally Khan, alleging that he had been tampered with by the prosecutor, your proceeding to examine him against the prisoner was objectionable.

Calcutta Court, 15th March, 1839.

Western Court, 30th March, 1839.

From the Register of the Western Provinces to the Register of the Presidency Court of Nizamut Adawlut, under date the 15th March, 1839.

No. 1204.

1837.
Act XVII.
Secs. 9, 10, 32.

I am directed by the Court to transmit to you, for the purpose of being laid before the Calcutta Court, the accompanying copy of a letter from the session judge of zillah Mynpooree, No. 10, under date the 26th ultimo, and of its enclosure, from the officiating magistrate of that district, on the subject of clauses 9, 10, and 32 of Act XVII. of 1837.

2. The view taken by Mr. Begbie of the clauses above cited, appears to the Court to be correct and conformable to the law, and they propose, with the concurrence of the Calcutta Court, to inform that officer accordingly.

From the Session Judge of Zillah Mynpooree to the Register of the Nizamut Adawlut, Western Provinces, dated 26th February, 1839.

At the request of the officiating magistrate of Mynpooree, I have the honor to submit the accompanying copy of a letter addressed to me by that officer under date 1st instant, relative to two cases of conviction by him under Act XVII. of 1837, in which I annulled his orders.

2. I further beg to submit the proceedings in both cases, and to offer the following observations thereon.

3. With reference to the first query of the magistrate I have to observe, that in one of the cases referred to, viz. that of Chota and Kunhye, none of the dawk functionaries were examined by the officiating magistrate, either as prosecutor or witness, nor was there any reference made, throughout the proceedings, to or from the post office department; according to the officiating magistrate's own admission, therefore, the illegality of his proceedings, with reference to Section 32 of the Act, is manifest. In the other case (that of Himmut) the defendant was (as in the preceding case) apprehended by the police, without any application or information from the post office authorities, and examined by the magistrate on the 20th December, Government being made the prosecutor. On the same day a roobakaree was addressed by the officiating magistrate to the post master, directing him to send some person to give evidence, "as prosecutor," and on the 23d December, the Dawk Moonshee attending and giving evidence, the defendant was convicted and punished. Now, this mode of proceeding appears to me to be irregular, and not at all what was contemplated by the Act; which evidently intended that the proceedings should *originate* with the post office authorities; not that the magistrate or his police should, without any application or information from the post office department, apprehend persons offending against the Act. Indeed, I do not understand under what authority the police officers acted in the cases in question, which being simple misdemeanors, and not crimes, are clearly beyond their competence to interfere with; and in apprehending the defendants, they violated the provisions of Clause 3, Section 12, Regulation XX. of 1817. In both cases, likewise, the officiating magistrate kept the defendants in confinement, instead of calling upon them to give bail.

4. With respect to the 2d query, it appears to me, that the sections quoted by Mr. Fagan are imperative as to the amount of fine to be imposed, and that the magistrate has no power to mitigate the penalty therein specified.

5. The 3d and 4th queries have been resolved, since the date of the officiating magistrate's letter, by the enactment of Act II. of 1839, which prescribes the measures to be resorted to for the realization of fines imposed by the magistrate, should other means not have been specially provided by the enactment under which the fine may have been imposed.

From the Acting Magistrate of Zillah Mynpooree to the Session Judge of that District, dated 1st February, 1839.

With reference to your roobukarees of the 18th instant, cancelling the orders passed in the cases noted in the margin, I beg to submit the following points for your consideration, and for reference to the Sudder Nizamut, if necessary.

1st case. Government versus Himmut. 2d case. Government versus Chota and Kunhye, conveying an illegal dawk.

1st. To insure the legality of a conviction according to the terms of Clause 32 of Act XVII. of 1837, is it or is it not sufficient for the magistrate to take the deposition, as prosecutor, of the deputy post master, or such person as may be deputed by him for that purpose, in the event of the deputy post master acquiescing in the prosecution, although the offending party may have been apprehended in the act, previously, by the police?

2d. Is it incumbent on the magistrate to impose the full fine of rupees 50 for the offence described in clauses 9 and 10 of that Act, or is it discretionary to impose a fine of less than 50 rupees?

3d. What means is he at liberty to adopt for the realization of the fines mentioned in the Act?

4th. If the fine is not paid, is he competent, as under other regulations, to commute it to a certain period of imprisonment, and if so, what is the period to which the commutation is limited?

The Calcutta Court concurred, 1st April, 1839.

No. 1205.

From the Register of the Western Provinces to the Register of the Presidency Court of Sudder Dewanny Adawlut, under date the 15th March, 1839.

1819. Reg. VIII. Sec. 18, Clauses 4 and 5.

I am directed to transmit to you, for the purpose of being laid before the Calcutta Court, the accompanying copy of a letter, No. 68, under date the 7th instant, from the officiating judge of Ghazeepore, requesting the opinion of the Court, whether in cases in which a landholder may institute a suit for arrears of rent, and at the same time for the ejectment of the tenant from the land in consequence of the arrear sued for being due, the amount of stamp should be computed according to the value of the land, together with the amount of arrear, or merely with reference to the latter?

2. The Court propose, with the concurrence of the Calcutta Court, to inform Mr. Heyland that they do not very clearly understand how the question submitted by him, as above stated, can arise. They remark that under the provisions of clauses 4 and 5, Section 18, Regulation VIII. of 1819, the landholder must first establish by a suit, either summary or regular, the existence of an arrear before he is at liberty to cancel the lease of an under tenant, while as regards khodkhasht ryots, they have also the power of immediately paying into court any sum adjudged to be due from them before they can be ejected.

3. With regard to a suit brought by a resident cultivator against his landholder to obtain a reversal of a summary decision passed by a collector, adjudging a balance to be due from him, and to regain possession of his jote from which he may have been ejected consequent on such decision, the Court propose to refer Mr. Heyland to the letter addressed by them under date the 7th February 1834, to the judge of zillah Mynpooree, No. 862 of the construction book, as explaining the manner in which such suits should be estimated.

4. The Court further propose, as connected in some measure with Mr. Heyland's present reference, to refer him to the letter addressed to the judge of zillah Burdwan on the 6th July 1832, No. 702 of the construction book, by which it has been ruled that though the land included in an ijarah or a jote of a cultivating ryot is not transferrible by sale, the interest of the party claiming the ijarah or jote is capable of being valued; and that the plaintiff should be allowed in such cases to lay his suit at the amount which he may consider the value of his interest in the thing claimed. The Court see reason from Mr. Heyland's letter to believe that this distinction has not been sufficiently attended to by him.

From the Officiating Judge of Zillah Ghazeepore to the Register of the Sudder Dewanny Adawlut, Western Provinces, dated 7th March, 1839.

I shall feel obliged by your soliciting the opinion of the Court of Sudder Dewanny Adawlut, whether it is necessary on a landholder instituting a suit for arrears of rent, and at the same time for the ejectment of the ryot from the land merely in consequence of the arrears sued for being due, that the amount of stampt paper should be computed according to the value of the land, together with the amount of arrears claimed, or merely according to the arrears.

2. There are many cases of this description, and the rule in this district has been that the amount of stampt paper in such cases should be computed according to the arrears, together with the value of the land. I am of opinion that it is not required that the amount of value of the land should be added, where the right to the land is not questioned and does not come under investigation; the mere question, whether the arrear is due or not, being the point in dispute, particularly as by Section 18, Regulation VIII. of 1819, it would appear that if the arrear was not paid the plaintiff was at liberty of his own authority to cancel the ryot's lease, on its having been adjudged to be due, thus making the second part of the action unnecessary and entailing a very serious extra expence on the ryot.

3. I beg to observe that there was a reference made by my predecessor on the 19th July 1837, on the subject of stampt paper required in suits instituted by landholders for possession, and a reply was made by the Court on the 12th September 1837, stating that the amount should be computed according to the value of the land; but I conceive that the subject of suits of the above description was not in contemplation by the Court.

4. I shall feel much obliged by an answer to this question, which is one of some moment; and as the decisions of most cases of this description are final in this court, there is no other mode of knowing what may be the opinion of the Court of Sudder Dewanny Adawlut.

The Calcutta Court concurred, 12th April, 1839.

No. 1206.

Regarding the competency of an officer holding a special sessions for the trial of a party committed by the civil judge, to order the judge to commit any other person who may appear to have been implicated in the same offence.

On a question arising, whether on the occasion of the commitment of a prisoner by a civil judge, for trial before a special sessions, the officer holding such sessions is competent to direct the judge to commit any other party who may appear from the evidence to be implicated, or whether his powers are restricted to suggesting the expediency of such a course, leaving its adoption to the discretionary option of the judge, it was held that under such circumstances the compliance of the judge is optional.

Calcutta Court, 1st April, 1839.
Western Court, 26th April, 1839.
Letter issued to Judge of Cuttack, 24th May, 1839.

No. 1207.

From the Register of the Presidency Court of Sudder Dewanny Adawlut to the Register of the Western Provinces, under date the 1st April, 1839.

1814. Reg XXVIII. Secs. 12 & 13.

I am directed by the Court to request that you will lay before the judges of the Court of Sudder Dewanny Adawlut for the Western Provinces, the accompanying extract from a letter from the judge of Jessore, dated the 19th June last.

2. The Court propose to inform the judge of Jessore, with the concurrence of the Agra Court, that in their opinion the rules contained in Sections 12 and 13, Regulation XXVIII. of 1814, are applicable to any pauper appellant, whether he was a pauper in the original suit or not. If however the appellant appeared originally as a pauper, he would of course be at liberty to file a copy of the decree of the lower court on plain paper, being entitled to such copy under Section 8 of the same Regulation.

Extract from a letter from the Judge of Zillah Jessore, under date the 19th June, 1838.

Para. 6. Whilst on this subject I take this opportunity of requesting the opinion of the Superior Court, in order to satisfy a doubt that has arisen in my mind regarding the actual meaning of Sections 12 and 13 of Regulation XXVIII. 1814. Is it intended that the provisions of Sections 12 and 13 of the Regulation should be made applicable to a *pauper* plaintiff desirous of appealing *in formâ pauperis* from the decision passed on his original suit, or are they only applicable to a person, *not originally* admitted as a pauper, but desirous of appealing as such?

7. On the above question I should be obliged by the opinion of the Court, as I am of opinion that, on the principle laid down in Section 14 of the said Regulation, (wherein an original pauper plaintiff is allowed to respond to an appeal made against him, as a pauper and without any further enquiry,) the provisions of Sections 12 and 13 are only applicable to persons not originally admitted as paupers, and not to *pauper* plaintiffs desirous of appealing *in formâ pauperis*, to whom however I find it has been the custom of this court to apply them, such pauper plaintiff or appellant being, I conceive, at liberty to prefer his petition of appeal on plain paper and without any further enquiry.

From the Officiating Register of the Western Provinces to the Register of the Presidency Court of Sudder Dewanny Adawlut, under date the 26th April, 1839.

I am directed to acknowledge the receipt of your letter No. 890, dated 1st instant, with annexed extract of a letter from the judge of Jessore, requesting the opinion of this Court as to the applicability of the rules contained in Sections 12 and 13, Regulation XXVIII. of 1814, to pauper appellants, and in reply, to inform you that the Court concur in the view taken by the Court at the Presidency, that, whether the party appealing as pauper was or was not a pauper in the original suit, the rules in question must still be binding on the appellant, who, however, if he appeared originally as a pauper, would be entitled to the privilege conferred by Section 8 of the Regulation quoted in respect to filing a copy of the decree.

No. 1208.

1811.
Reg. VII. Sec. 5.

Held that a merely litigious appeal is not punishable by the magistrate under the provisions of Section 5, Regulation VII. of 1811; but that in the event of a prosecutor, whose case has been dismissed by a subordinate court, persisting in bringing before the magistrate a charge evidently malicious or greatly exaggerated, it would be competent to that functionary to punish him under the above cited law.

Calcutta Court, 1st April, 1839.
Western Court, 21st June, 1839.
Letter issued to the Magistrate of Patna, 2d August, 1839.

No. 1209.

A civil judge not competent to call upon the magistrate to enforce his orders when resisted.

Held that it is not competent to a civil judge, in cases of resistance of the process of his court, to call upon the magistrate to enforce his orders, but that he must pursue the course laid down in the regulations.

Calcutta Court, 12th April, 1839.
Western Court, 3d May, 1839.
Letter issued to Judge of Sarun, 31st May, 1839.

From the Officiating Register of the Western Provinces to the Register of the Presidency Court of Sudder Dewanny Adawlut, dated 26th April, 1839.

No. 1210.

1833.
Reg. XII. Sec. 2, Clause 3.

A question having arisen respecting the construction of Clause 3, Section 2, Regulation XII. of 1833, I am directed by the Court to request that you will ascertain and communicate the opinion of the Calcutta Court on the following point.

2. Under the terms of Clause 3, Section 2, Regulation XII. of 1833, is it competent to the Court to authorize, an application being made to that effect, the employment, by a party, of more than one general agent, not being authorized pleaders, for the purpose of conducting generally all suits or other business before the Court; or is the number, under that rule, confined to one?

3. The majority of the Court are of opinion that the clause above quoted contains no limitation of the nature described. Mr. Monckton, on the other hand, thinks that it must be construed to restrict the licence granted by the Court to one general agent, and, the object of the provision appearing to be to enable parties to employ a confidential agent, who, should he require legal aid, can associate with himself any authorized pleaders of the Court, considers any excess beyond the number of one as objectionable.

4. In the event of your Court concurring with the majority of this Court, that more than one agent can be appointed, I am directed to suggest whether it would not be desirable that the party appointing such agents should be required to state in his power of attorney that he acknowledges any acts jointly and severally performed by them, in the discharge of their duties as agents, to be binding on him. If the Presidency Court should agree as to the general question, the Court propose, with their concurrence, that the above condition be required in all mookhtarnamahs of the sort described.

From the Register of the Presidency Court of Sudder Dewanny Adawlut to the Officiating Register of the Western Provinces, dated the 10*th May*, 1839.

I am directed by the Court to acknowledge the receipt of your letter No. 679, under date the 26th ultimo, and in reply to state, that they concur in the opinion of the majority of the judges of the Western Court, that the provisions of Regulation XII. 1833, authorize the employment by parties of more than one general agent for the conduct of suits and other business.

2. The Court approve of the suggestion, that parties appointing more than one general agent be required to declare their responsibility for the acts jointly or severally done by such agents, in the discharge of their duties, and will adopt the same as a rule of practice.

No. 1211.

1826.
Reg. X. Sec. 3.

Held that scraping a salt chur with a view to collect salt earth, is not an offence punishable under the provisions of Section 3, Regulation X. 1826.

Western Court, 19*th April*, 1839.
Calcutta Court, 10*th May*, 1839.

No. 1212.

Liability of the crops on chowkeedaree lands to sale, in execution of decrees given against their owners.

Held on a reference from the session judge of Beerbhoom, that crops grown on lands allotted to village chowkeedars for their maintenance cannot be exempted from liability to sale, in satisfaction of decrees issued against their owners.

Western Court, 19*th April*, 1839.
Calcutta Court, 12*th July*, 1839.

1213.
3d May 1839.

From the Officiating Register of the Western Provinces to the Register of the Nizamut Adawlut, under date the 3d May, 1839.

No. 1213.
1822.
Regulation VIII.

With reference to the annexed extract of a letter from Mr. R. C. Glyn, session judge of Meerut, transmitting proceedings on the trial of Ghasee and others, charged with murder by thuggee, and other offences therewith connected, I am directed to request that you will bring the following points to the notice of the Presidency Court for their consideration and opinion.

2. This Court are of opinion that, in the case referred to, the judge of Meerut was not competent, under any act at present in force relating to the crime of thuggee, to try the prisoners Nos. 1 to 14 on the specific charges of murder and plunder contained in the first and second counts, such acts having been committed in the Umballa territory within the jurisdiction of the political agent, without first obtaining the authority of Government; and that, by consequence, he could not try the prisoners Nos. 15 and 16 for being accessories after the fact.

3. Similarly it was beyond the competency of Mr. Glyn in the absence of the authority referred to, or of that of the Nizamut Adawlut under the provisions of Regulation VIII. of 1822, to enter upon the trial of Nos. 15 and 16 on the charge of buying children from thugs knowing them to have been unlawfully obtained, or of No. 17 for aiding and abetting in such sale, both of which offences were perpetrated in the district of Kurnaul, within the jurisdiction of the session judge of. Dehli.

Extract of a letter from R. C. Glyn, Esq. Session Judge of Meerut, No. 17, dated 7th January, 1839, to the Register of the Nizamut Adawlut, North Western Provinces.

Session Judge's Court, Zillah Meerut.

Trial No. 5, of a Calendar of prisoners, committed in A. D. 1838-39.

Government ..... *Prosecutor,*

versus

1. Ghasee, son of Goorbux,
2. Chotee, ditto ditto,
3. Goorbux, ditto ditto,
4. Karee, wife of Goorbux,
5. Roopla, son of ditto,
6. Geeanee, wife of Nowla and daughter of Hurree Sing,
7. Toolseea, son of Nowla and Geeanee,
8. Nuthon, son of Doda,
9. Koosalee, mother of Nuthon and daughter of Isisa,
10. Kheana, son of Munsa,

11. Mohoroo, son of Kheeana,
12. Bhugwandas, son of Bhoja,
13. Chynee, wife of Bhugwandas,
14. Lallee, wife of Kaner Das,
15. Dhean Sing, son of Hakema,
16. Mallon, son of Chedda,
17. Than Sing, son of Birja,—*Prisoners.*

Charge—1*st Count.*—Nos. 1 to 14 for the wilful murder by strangulation (commonly called thuggee) of Sookloll and his wife, Mohun Lall and his wife, Bucktoo, Thakoor Das, and Chobee his wife, of the Brahmin caste; Nuthoo and his daughter Luchmee, of the Chamar caste; and two other people of the Jat caste, relations of Hoosein Bux, on the banks of the Jumna, near the city of Thanaisur, in the Umballa States, on or about the month of October, 1837.

2*d Count.*—For plundering them of the whole of their children and property.

3*d Count.*—Nos. 1 and 2 for being professional Lughardors or stranglers.

4*th Count.*—No. 3 for being a sirdar of a gang of thugs, by profession.

5*th Count.*—Nos. 1 to 14 for being professional thugs and thugnees who gain their livelihood by murdering travellers and disposing of their offspring.

1*st Charge.*—Nos. 15 to 16 for being accessories after the fact and purchasing the children from the thugs knowing them to have been unlawfully obtained.

1*st Charge.*—No. 17 for aiding and abetting in the sale of the children and receiving a profit on every one disposed of.

The Calcutta Court concurred 17*th May,* 1839.

No. 1214.

1793.
Reg. IV. Sec. 25.

Held that a fine imposed under the provisions of Section 25, Regulation IV. of 1793, may be levied under the same rules as are applicable to the execution of decrees of court, that is, either by sale of the property of the individual on whom the fine is imposed, or by the imprisonment of the individual.

Calcutta Court, 3*d May,* 1839.
Western Court, 24*th May,* 1839.

No. 1215.

1834.
Reg. II. Sec. 3, Clause 1.

Decided by the Government, in concurrence with the majority of the Calcutta Court, on a reference from the session judge of the 24-Pergunnahs, that a prisoner sentenced to imprisonment for escaping from jail, is entitled to exemption from labor on payment of a fine, under the provisions of Clause 1, Section 3, Regulation II. 1834, for the period of his confinement for that specific offence.

Calcutta Court, 10*th May,* 1839.
Letter of Secretary to Government, Judicial Department, 1*st August,* 1839.

From the Officiating Register of the Western Provinces to the Register of the Presidency Court of Sudder Dewanny Adawlut, under date the 17th May, 1839.

No. 1216.

With reference to a question put to them by the judge of Futtehpore, as indicated in the margin,* I am directed by the Court to request that you will bring the same before the Court at the Presidency for their opinion thereon.

2. This Court propose, with your Court's concurrence, to inform the judge that, as the object of a summons, in the case referred to, is to give the summoned party an opportunity of defending himself against the charge, which is distinct from ordering his apprehension after conviction, in consequence of non-payment of any fine that may have been imposed, with a view to his imprisonment in jail, they are of opinion that a person summoned on the charge described is clearly at liberty to answer such charge through a vakeel, without being obliged to appear in person.

* "Whether persons on whom a summons has been issued to answer a charge of resistance of process, are at liberty to answer a charge through a vakeel without appearing in person."
Ruled in the affirmative.

Calcutta Court concurred, 7th June, 1839.

No. 1217.

1814.
Reg. XXVIII.
Sec. 12, Cl. 3 and 4.

A question having arisen whether, on the rejection under Clause 3, Section 12, Regulation XXVIII. 1814, of a petition suing to appeal as pauper, the petitioner having been admitted as a pauper in the lower court, the party so rejected, receiving back his copy of the decree of the inferior court, which he obtained on plain paper, and being desirous of instituting his appeal in the manner provided for by clause 4 of the same section and regulation, may accompany his petition of appeal with the copy on plain paper above mentioned, or whether he must obtain a fresh copy of the decree on the prescribed stamp in the mode required from parties who were not paupers in the lower court, it was held that under the circumstances stated, a pauper may accompany his petition of appeal presented under Clause 4, Section 12, Regulation XXVIII. 1814, with a copy of the decree of the lower court on plain paper.

Western Court, 17th May, 1839.
Calcutta Court, 21st June, 1839.

No. 1218.

1793.
Reg. XXXVI.
Sec. 9.
1812.
Reg. XX. Sec 2.

Held on a reference from the judge of Mymensing, that a Hibeh-nameh, or deed of gift, could not be registered after the death of the donor, and that the register of deeds was quite right in refusing to register it.

Western Court, 24th May, 1839.
Calcutta Court, 21st June, 1839.

No. 1219.

1839.
Act I.

Held that Act I. of 1839, does not deprive moonsiffs of the power of selling property in satisfaction of decrees, passed by themselves in regular suits for recovery of arrears of rent.

Calcutta Court, 31st May, 1839.
Western Court, 21st June, 1839.
Letter to Judge of Cuttack, issued 2d August, 1839.

From the Officiating Register of the Western Provinces to the Register of the Presidency Court of Nizamut Adawlut, dated the 31st May, 1839.

No. 1220.

1811.
Reg. VII. Sec. 5.

I am directed, to forward, for submission to the Calcutta Court, the accompanying copy of a letter from the session judge of Meerut, and of its enclosure, and to request that you will obtain the opinion of the Court on the subject discussed therein.

2. The Court propose to inform Mr. Glyn, should your Court concur, that they consider the view taken by him of the question to be correct, and that the magistrate possessed no authority to award punishment for a false complaint made before the revenue authorities, no case connected with such complaint having originated in his court; that officer's power being, in the Court's opinion, restricted to the cognizance and disposal of those cases alone that have been primarily instituted before him.

From the Session Judge of Zillah Meerut to the Register of the Nizamut Adawlut, Western Provinces, dated the 22d May, 1839.

I request you will do me the favor to obtain the Court's construction of Section 5, Regulation VII. of 1811, as to whether it is applicable to charges preferred before a collector, and then, as being false and malicious, transferred by an order of his revenue court into the court in which he presides as magistrate, and therein disposed of; or whether the vexatious charges must not in the first instance be preferred in the magistrate's court, according to the letter of the Regulation above quoted, to render the authors of them liable to the prescribed penalties.

2. An individual preferring a false charge in a magistrate's court, and a collector transferring a similar charge from his own into the magistrate's court, appear to be acts sufficiently distinct; and a specific rule providing a penalty in the one case, does not necessarily apply to the other.

The Presidency Court, on the 5th July, 1839, concurred.

From the Officiating Register of the Western Provinces to the Register of the Presidency Court of Nizamut Adawlut, dated the 31st May, 1839.

No. 1221.

1801.
Reg. III.
1817.
Reg. XVII. Sec. 14.

I am directed by the Court to request that you will lay before the Calcutta Court, for their consideration and opinion, the accompanying copy of a letter from the officiating session judge of Ghazeepore.

2. This Court propose to inform the session judge, with the concurrence of the Court at the Presidency, that the course followed by him, in the case to which his communication refers, was the correct one, and that he is competent to enter upon the trial, the commitment having been made by the magistrate and not by the civil judge.

Corrected
C.O.4.
13 March
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1221—1223

31st May } 1839.
7th June }

From the Officiating Session Judge of Zillah Ghazeepore to the Register of the Nizamut Adawlut, Western Provinces, dated the 22d May, 1839.

The defendants in this case* were committed by the magistrate and are charged with forgery and fraud and subornation of the same for filing or causing to be filed a solahnameh in the civil court, purporting to have been on the part of Soobrattee, plaintiff, and causing the case which was pending there to be decided accordingly.

* Government versus Silwunt Row and Hingun Khan.

In consequence of the document in question having been filed in a case that was pending in the civil court, I was in doubt whether I should not myself have committed the parties to take their trial under the provisions of Regulation III. of 1801, and Section 14, Regulation XVII. of 1817, and requested the permission of Government to refer the case for trial to some other district. The regulations in no way direct the adoption of the mode in cases of this species of fraud; but from the Court of Nizamut Adawlut's Circular, of the 5th December, 1828, it appears that by analogy a magistrate is not competent to receive a complaint of forgery in a case before the civil court, and in the latter clause it states, "unless the civil court may direct a prosecution for forgery or give permission to the aggrieved party to prosecute." Under these circumstances I sent the case to the magistrate, directing that, in the event of his considering that there was sufficient evidence, he should commit the parties to take their trial at the sessions. The magistrate consequently has committed the case, but previous to hearing it and passing any orders I shall feel obliged by your informing me whether, under these circumstances, I am competent to do so, or whether, as civil judge, it is necessary that I should myself commit the prisoners to take their trial, and solicit the permission of Government to refer the case to some other district.

The Calcutta Court concurred, 5th July, 1839.

No. 1222.

1795.
Reg. VI. Sec. 33.
Reg. XX. Sec. 13.
1803.
Reg. XXVI. Sec. 25.
1822
Reg. XI. Sec. 21.
1830.
Reg. VII. Sec. 7, Clause 1.

Held that there is nothing in the law as it now stands to warrant the imposition, on a first purchaser of a permanently assessed estate sold for arrears of revenue, who may fail to fulfil the conditions of sale, of any other penalty than the annulment of such sale, and the forfeiture of the amount paid.

Western Court, 3d June, 1839.
Calcutta Court, 5th July, 1839.

No. 1223.

1831.
Reg. V. Sec. 22.
1832.
Reg. VII. Sec. 7.

Held that as by Section 7, Regulation VII. of 1832, the rule regarding the execution, by principal sudder ameens, of their own decrees, contained in Section 22, Regulation V. of 1831, is declared applicable to all sudder ameens and moonsiffs who may be appointed under the latter Regulation, and as the first named Section unqualifiedly declares that decrees passed in the courts of principal sudder ameens "shall be executed" by those courts, without any reservation or exception, a civil judge is not competent to transfer, of his own authority, to the principal sudder ameen, applications for the

execution of moonsiffs' decrees, (such moonsiffs having been appointed under the provisions of Regulation V. 1831,) and that all decrees passed by moonsiffs must, under the above law, be enforced by those officers, except under such circumstances as would have precluded them by law from themselves hearing and determining a regular suit.

Western Court, 7th June, 1839.
Calcutta Court, 12th July, 1839.

No. 1224.

1828
Reg. VII. Sec. 20.

Held, with advertence to the terms of Section 20, Regulation VII. 1828, that there is nothing to bar the cognizance under it, by the native commissioners appointed according to that Regulation, of suits for the rent, revenue, or produce of lakhiraj lands.

Western Court, 14th June, 1839.
Calcutta Court, 12th July, 1839.

No. 1225.

1817
Reg. XVII. Sec. 14, Clause 2.

Held on a reference from the session judge of Benares, that it is not competent to a civil judge to commit for trial any party to a civil suit, or other person, on a charge of fraud; but that he should make over the case to the magistrate, with a view to that officer's investigating the charge, and disposing of it himself, or, if committable under the Regulations, committing it at his discretion for trial at the sessions.

Western Court, 14th June, 1839.
Calcutta Court, 12th July, 1839.

No. 1226.

1814
Reg. XXVI Secs. 10 and 12.
1831.
Reg. V. Sec 18, Cl. 4, and Sec. 21.

Held on a reference from the judge of Goruckpore that Sections 10 and 12, Regulation XXVI. 1814, though applicable to the courts of the principal sudder ameens, are not applicable to those of the sudder ameens and moonsiffs.

Western Court, 21st June, 1839.
Calcutta Court, 2d August, 1839.

From the Officiating Register of the Western Provinces to the Register of the Presidency Court of Sudder Dewanny Adawlut, under date the 21st June, 1839.

No. 1227.

Question regarding the legality of detaching the materials of a building for the purpose of bringing them to separate sale in execution of a decree.

A question having arisen as to whether, in executing a decree, if no purchaser be forthcoming for a house as it stands, and individuals should signify their willingness to purchase the materials, it is legal to detach or cause them to be detached from the building for the purpose of bringing them to separate sale, I am directed to request you will obtain the opinion of the Calcutta Court on the point.

2. The opinion of this Court is that such a proceeding is not warranted by law, which seems to require that the property should suffer no detriment in any way prior to sale, the auction purchaser being of course at liberty, on his own responsibility, after the purchase may have been concluded, to remove any part of the same, being at the same time answerable to any other claimants who may contest the extent of right acquired by him at sale.

3. The Court observe that no hardship could result from the observance of the above rule, as under the construction recently adopted by both Courts (circulated by this Court under date 18th January last) the decree-holder would always have the option of himself becoming the purchaser by filing his receipt for the amount of his claim.

4. The same principle, the Court remark, would apply to the case of trees in a similar predicament, which ought not to be cut down till after they shall have been sold.

The Calcutta Court concurred, 2d August, 1839.

No. 1228.
1814.
Reg. XXIII. Sec. 27, Clause 2.
Construction 870, answer to query 6th.
1838
Acts VII. and XXII.

Held on a reference from the officiating judge of Goruckpore, that under Acts VII. and XXII. of 1838, the provisions of Clause 2, Section 27, Regulation XXIII. of 1814, and the printed construction thereon of the 21st February 1834, must be considered as virtually superseded.

Western Court, 28th June, 1839.
Calcutta Court, 2d August, 1839.

From the Register of the Western Provinces to the Register of the Presidency Court of Sudder Dewanny Adawlut, under date the 5th July, 1839.

No. 1229.
1814.
Reg. XXVI. Sec. 4.
1839
Act IX.

Letter from Mr. Harington, No. 108, dated 7th ultimo. Ditto in reply, from Court, No. 1037, dated 14th ditto. Ditto from Mr. Harington, No. 117, dated 25th idem.

I am directed to request that you will lay before the Calcutta Court, for their consideration and opinion, the accompanying copies of correspondence connected with a reference made to this Court by the officiating judge of Goruckpore.

2. With respect to the first question on which the judge has asked their opinion, I am desired to say that the Court propose to inform him that they consider his view to be correct, and that petitions to sue as pauper, remaining undisposed of at the date of Act IX. of the present year coming into force, must of course be considered subject to the rules provided by that law.

3. As to the second point, however, stated by Mr. Harington, this Court do not concur in the opinion which he has expressed thereon, and would acquaint him, with your Court's concurrence, that under the circumstances described in his 3d paragraph, he is not, in their judgment, competent to admit, of his own authority, a second application after the rejection of the first, but must treat it as a petition for a review of his orders, and proceed accordingly.

From the Officiating Judge of Zillah Goruckpore to the Register of the Sudder Dewanny Adawlut, Western Provinces, dated the 7th June, 1839.

There are two points connected with the operation of Act IX. of the present year, on which I am desirous of obtaining the opinion of the Court of Sudder Dewanny Adawlut, and have to request the favor of your laying this letter before the Court with that object.

2. The first is, whether the provisions of the Act in question, are to be considered applicable to petitions to sue *in formâ pauperis* presented under Regulation XXVIII. of 1814, but which remained undisposed of at the date of the promulgation of the recent enactment.

And the second, whether the application of a party to institute a suit *in formâ pauperis* having been rejected by the judge, under the discretionary power vested in him by the first section of the Act, in consequence of there not appearing to him to be probable cause for instituting the suit, the judge is competent to receive one, of his own authority, to admit a second application from the same party relating to the same matter, either urging fresh grounds for the institution of his suit, or supplying any omission or correcting any thing which may have led to the rejection of his first application; or whether such second application must be looked upon by the judge as an application for a review of his first order, and treated accordingly.

3. With regard to the first point, the law distinctly declares that no person shall be hereafter entitled to institute any suit *in formâ pauperis* unless upon certain conditions, therein detailed; and however severely such a construction may operate as regards pending applications presented previously to the passing of the Act, the terms of it are so general and imperative that, under a strict interpretation of the law, it must, I conceive, be held to include such applications. Regulation XXVI. of 1814 and Regulation II. of 1825, and that part of Regulation V. of 1831, which relates to the finality of the decisions of the zillah judge in appealed suits from the sudder ameens and moonsiffs, were, I have reason to believe, construed in a similar manner on their promulgation, so that precedents are not wanting to support the opinion which I have above expressed.

4. With regard to the second point, I am disposed to think that the zillah judge may receive such second application under the circumstances stated by me, and that in the event of the petitioner being able to satisfy him, in the manner laid down in the Act, that there is probable cause for his instituting his suit, it would be competent to the judge, of his own authority, to comply with the petitioner's application to sue as a pauper.

The Calcutta Court concurred, 2d August, 1839.

No. 1230.

Registry of deeds written in the Persian language.

Held on a reference from the judge of Allahabad, that officers appointed to register or authenticate deeds, would not be justified in refusing to attest or register any document presented to them for that purpose, by reason of its being written in the Persian language.

Western Court, 5th July, 1839.
Calcutta Court, 2d August, 1839.

No. 1231.

Joint magistrates are competent to try

Held on a reference from the session judge of Dacca that as, under paragraph 6 of the orders of Government dated 1st November 1831, joint magistrates are

12th / 19th } July, 1839.

appeals from the decisions of sudder ameens in petty criminal cases.

competent and required to exercise the full powers of magistrate unless interdicted from the exercise of such powers by their superior, they are empowered to try appeals from the orders of the sudder ameens in petty criminal cases.

Calcutta Court, 12*th July*, 1839.

Western Court, 9*th August*, 1839.

No. 1232.

1824.
Reg. X. Sec. 3, Cl. 1.

Held on a reference from the magistrate of Muttra, that a magistrate is not empowered to offer a pardon to any person charged with participating in a crime committed in a district in which such magistrate has no jurisdiction.

Calcutta Court, 12*th July*, 1839.

Western Court, 22*d November*, 1839.

No. 1233.

Rule for the enforcement of a bail-bond.

Held on a reference from the session judge of Hooghly, that the rules contained in the circular orders of the Nizamut Adawlut, Nos. 70 and 74, volume I. and construction No. 734, are equally applicable for the enforcement of a security bond, executed before a magistrate by a person engaging to produce in his court a party charged with a criminal offence.

Calcutta Court, 19*th July*, 1839.

Western Court, 9*th August*, 1839.

No. 1234.

Competency of a magistrate to refer to a joint magistrate criminal cases for report.

Held on a reference from the session judge of Midnapore, that a magistrate is competent to refer to a joint magistrate, not holding independent jurisdiction, criminal cases for report, though, with reference to the respective powers of those officers, the measure should be resorted to as seldom as possible.

Calcutta Court, 19*th July*, 1839.

Western Court, 9*th August*, 1839.

No. 1235.

1831.
Reg. V. Sec 15, Cl. 4.
1806.
Reg. II. Sec. 2, Cl. 3.

Held on a reference from the judge of Dinagepore, that the processes of the principal sudder ameens and sudder ameens, required to be enforced in another zillah, should be issued under their seal and signature, as prescribed by clause 4, Section 15, Regulation V. of 1831, and with reference to clause 3, Section 2, Regulation II. 1806, be sent by the sudder ameen to the judge of the zillah or city court in which they are to be executed.

2. The processes of the moonsiffs' courts intended to be served in another zillah, should be issued through the channel and under the signature of the judge.

Western Court, 19*th July*, 1839.

Calcutta Court, 9*th August*, 1839.

No. 1236.
1814. Reg. XXVI. Sec. 15. Cl. 8. 1825. Reg. VII. Sec. 7.

The following reference was made by the judge of Futtehpore:

"Whether in cases in which an itelanameh in lieu of a hookemnameh has been issued for the defendant to shew cause, &c. under Regulation XXVI. of 1814, Section 15, Clause 8, and Regulation VII. of 1825, Section 7, and such defendant be not met with, it is then incumbent on the court issuing the process, to issue a proclamation or not?"

It was held that on the contingency contemplated by the judge, viz. the failure to serve a notice on the party, occurring, it is incumbent to issue a proclamation, but that the object would be best answered by including its purport in the notice, which should be accompanied by a perwanneh to the nazir, instructing him, in the event of personal service being impracticable, to affix the process to the defendant's house.

Western Court, 19*th July*, 1839.
Calcutta Court, 16*th August*, 1839.

No. 1237.
"Receiving stolen goods," a bailable offence.

Held on a reference from the commissioner of Delhi, that the offence of "knowingly receiving stolen property" is a bailable offence: and that on any person being apprehended on the distinct charge of receiving stolen goods, the original theft of such property not forming part of the charge, he should be allowed the option of giving bail.

Western Court, 19*th July*, 1839.
Calcutta Court, 16*th August*, 1839.

No. 1238.
Embezzlement, a bailable offence.

Held on a reference from the session judge of zillah Juanpore, that embezzlement is a bailable offence, and that consequently a person confined on that charge should have the option accorded him of furnishing bail and obtaining his enlargement from restraint.

Western Court, 19*th July*, 1839.
Calcutta Court, 16*th August*, 1839.

No. 1239.
1837. Act XXIV. Sec. 5.

Held on a reference from the session judge of Dacca, that an order passed by a magistrate to prevent persons going about at night after a fixed hour, is appealable to the session judge under the provisions of Section 5, Act XXIV. 1837.

Calcutta Court, 19*th July*, 1839.
Western Court, 20*th September*, 1839.

No. 1240.
1818. Reg. VIII. Sec. 6.

Held that the removal of prisoners, confined in a criminal jail on a requisition of security for good conduct, to another district, for the purpose of being induced to give evidence as approvers, before the authorities appointed for suppressing dacoitee, is illegal.

But if prisoners, thus confined, have no objection to be removed to the jail of another district for the sake of giving evidence, the Court of Nizamut Adawlut may sanction their removal.

Western Court, 2*d August*, 1839.
Calcutta Court, 30*th August*, 1839.

No. 1241.

1816.
Reg. XIII.
1824.
Reg. VII.
Power of a magistrate to search a house for opium under the circumstances stated.

The following case was submitted for opinion by the magistrate of Cawnpore.

"Opium, the produce of any cultivator's field, by law must be wholly given up to the opium agent. A portion of that opium being retained contrary to law, the retainer's wife in a fit of momentary anger poisons herself: can a magistrate search the retainer's house for the remainder of the opium, and in case of finding it, make it over to the collector for confiscation, or not?"

It was held by the Western Court that a magistrate possesses no authority, according to the law, to interfere with the object set forth, and beyond giving information to the opium authorities, could not act without receiving a regular application from the department.

The Calcutta Court concurred with the Western Court in considering that a magistrate, in his magisterial character, possesses no authority to direct the search of any house for the discovery of contraband opium *as such*; but they did not think it advisable that a magistrate should be restricted from searching houses for the discovery of opium, or any other deleterious drug, which from information before him he may have reason to believe has been used as an instrument of death; and of which he considers it essential to the ends of justice that a discovery should be effected.

Western Court, 16*th August*, 1839.
Calcutta Court, 20*th September*, 1839.

From the Officiating Register of the Western Provinces to the Register of the Presidency Court of Sudder Dewanny Adawlut, dated 16*th August*, 1839.

No. 1242.

Regarding the power of officers in charge of the judge's office, to grant leave of absence to the vakeels and amlah.

An instance having occurred in which a principal sudder ameen, in charge of the current duties of a judge's office, considered himself not authorized to grant leave of temporary absence on the application of a vakeel, I am directed to request that you will obtain the opinion of the Calcutta Court on the question.

2. This Court observe that circular orders No. 161, dated 6th February, 1835, contain rules for defining the duties of functionaries in charge of the office of a civil judge, and they are aware that the power of granting leave of absence to vakeels or other officers attached to the court is not expressly included therein.

3. The Court are, however, clearly of opinion that the power should be possessed by officers in charge of current duties, of giving leave of absence for a limited term to the vakeels of the court, and generally to the amlah of the judge's establishment. Such an arrangement would conduce to convenience, and no objection to it occurs to the Court, provided the exercise of the authority alluded to be restricted (which this Court would propose it should be) to cases of emergency, not admitting of delay.

The Calcutta Court, on the 20*th September*, 1839, *concurred.*

No. 1243.

1819.
Reg. VIII. Secs. 9 and 13, and Sec. 17, Cl. 5.

The following question arose out of a reference made by the judge of Beerbhoom.

The holder of a putnee tenure having defaulted, his tenure was brought to sale; the defaulter himself became the purchaser in a fictitious name, in opposition to the pro-

visions of Section 9, Regulation VIII. 1819, and ousted the duputneedar. In such case what remedy has the latter? Can he sue for recovery of possession of his tenure, or is he restricted to the remedies pointed out in Section 13, and Clause 5, Section 17, of the abovementioned regulation?

It was decided by the Government, in concurrence with the Calcutta Court, that as the actual defaulter is prohibited from purchasing the putnee tenure, a fictitious purchase, contrary to the law, cannot confer upon him the right of cancelling the under tenures; and that consequently the holder of any such tenure, in the event of the power of cancelling having been exercised, has his remedy in an action for recovery of possession against the fictitious purchaser, laying his suit at the value at which he estimates his interest in the property.

Calcutta Court, 16th August, 1839.
Letter of Secretary to Government, Jud. Dept., 25th February, 1840.

From the Judge of Mynpooree to the Officiating Register to the Sudder Dewanny Adawlut, Western Provinces, dated 22d August, 1839.

No. 1244.
Circular Order, July 12, 1839.

I have the honor to acknowledge the receipt of your circular letter No. 1351, under date 12th ultimo, on the subject of security of costs demanded from appellants, and with reference to the 2nd paragraph thereof, I beg to observe that as, under the construction communicated in the register's letter of the 12th June, 1835, in reply to Mr. Monckton's letter of the 2d April preceding, no security of costs is demandable from individuals appealing from the decisions of *moonsiffs*; and as in consequence of there being no sudder ameen in this district, none but appeals from the moonsiffs' orders can possibly be referred to the principal sudder ameen for decision, I conclude that the rule of practice now communicated is not intended to have immediate operation in this district.

2. To avoid any misapprehension on the part of the principal sudder ameen, I shall delay the communication of the present orders to him, until I am favored with a reply to this letter. The delay is immaterial, as, at present, I dispose of all appeals from the moonsiffs, myself.

3. I beg further to be certified as to the precise meaning to be attached to the words "after the expiration of one month" in the 1st paragraph of your letter of the 12th ultimo; that is, from what date the period of one month is to be calculated. I conclude from the date of the decree. I infer also that if the order for summoning the respondent should be passed, *before* the period of one month from the date of the decree have expired, although only one day may be wanting to fulfil that period, still a further indulgence of six weeks is to be allowed to the appellant for the filing of his security.

To the Judge of Zillah Mynpooree, dated 31st August, 1839.

Your letter No. 39, dated 22d instant, submitting certain questions suggested by the circular recently issued under date 12th ultimo, having been laid before the Court, I am directed to communicate to you the following reply.

2. On the point adverted to in your 1st and 2d paragraphs, I am instructed to say that you should apprise the principal sudder ameen of your district, of the order contained in the circular referred to, to serve as a rule of practice for the general guidance of his court, explaining to him, at the same time, that so long as there may be no sudder ameen in the district, the rule cannot of course come into practical operation, as far as regards the proceedings of his court.

3. With respect to the doubt expressed in paragraph 3 of your letter, the Court desire me to say that you are correct in calculating the period of one month, alluded to in the opening paragraph of the circular, from the date of the decree. They further observe that, although the circular does not expressly advert to the contingency of the order being passed *within* the period of one month, so calculated, with reference to the course which should be then followed, it is at the same time obvious that should that contingency occur, and the period remaining to the completion of the month be so brief as not to allow the appellant to furnish security prior to its expiration, you can always exercise your discretion as to making such further allowance on that score as may appear just and reasonable, the same principle being applicable in either case of the month having elapsed or the contrary.

The Presidency Court, on the 4th October, 1839, *concurred.*

No. 1245.
1819.
Reg. II. Sec 30, Cl. 6 and 7.

Held on a reference from the judge of West Burdwan involving a construction of Clauses 6 and 7, Section 30, Regulation II. 1819, that should it be found that the collector has omitted to perform any act which he was required to do by law, and has either forwarded his report according to Clause 6, or passed a decision under Clause 7, as the case may be, without such defect being remedied, thereby precluding the judge who may decide, or hear in appeal, the case, from proceeding with and adjudicating it in a legal manner, the latter officer would be authorized, and it would be his duty to return the proceedings, pointing out to the revenue officer his want of conformity to the law applicable to the case, and desiring him to rectify the error or supply the omission, and on his refusal, the judge should bring his conduct to the notice of Government.

In no case, however, except those in which such a course might be found essential to enable him to proceed legally, ought the judge to follow it, as the terms of Clause 6 of the Section and Regulation in question sufficiently provide for such other occasions as may arise.

Calcutta Court, 23d August, 1839.

Western Court, 13th September, 1839.

No. 1246.
1818.
Reg. XII Sec. 5. Cl. 1.

A prisoner having been convicted and sentenced by the session judge, but the case in which he had been committed having been referred under Section 4, Regulation IX. 1831, to the Nizamut Adawlut in regard to other prisoners, issue of the warrant for execution of the sentence of the sessions court was postponed. Before the orders on the reference were

received by the session judge, the convicted prisoner made his escape from jail. Held that he was punishable by the magistrate as a convict, under Clause 1, Sec. 5, Reg. XII. 1818.

Calcutta Court, 23*d August*, 1839.
Western Court, 6*th December*, 1839.

No. 1247.
1816.
Reg. XVII. Sec. 8.
1837.
Act XXIV. Sec. 5.
Zemindars cannot be required to provide buildings for police officers.

Held on a reference from the session judge of 24-Pergunnahs, that a magistrate is not authorised to call upon a zemindar to provide a building for the residence of such police officers as may be stationed upon his estate under Section 8, Regulation XVII. 1816; and that in the event of such an order having been passed by a magistrate, the appeal lies to the session judge under Section 5, Act XXIV. 1837.

Calcutta Court, 6*th September*, 1839.
Western Court, 27*th September*, 1839.

No. 1248.
1814.
Regulation XXVI. Section 15.
Construction 293, 18th June, 1818. *

Held on a reference from the judge of Cawnpore, that unproved claims of B against C may be considered as assets available in the execution of A's decree against B, and be sold by auction; when the auction purchaser would acquire the right of demanding payment from C, or, in the event of non-payment, of suing him for the recovery of the debt.

Held further that the same principle is applicable to proved claims in respect to which a decree has already passed, the auction purchaser possessing in this instance a right to sue out execution of decree in the same manner as the original decree-holder.

Western Court, 6*th September*, 1839.
Calcutta Court, 3*d January*, 1840.

No. 1249.
1814.
Regulation XXVI. Sec. 4, Cl. 2.

Held on a reference from the judge of Behar, that the spirit of Clause 2, Section 4, Regulation XXVI. 1814, is applicable to miscellaneous cases.*

Calcutta Court, 13*th September*, 1839.
Western Court, 4*th October*, 1839.

No. 1250.
1839.
Act IX.

Decided by the Government, in concurrence with the opinion of the Calcutta Court, that the provisions of Act IX. 1839, have equal reference to the respondent in an appeal, as to the defendant in an original suit.

Calcutta Court, 13*th September*, 1839.
Letter of Secretary to Government, Judicial Department, 16*th January*, 1840.

From the Officiating Register of the Western Provinces to the Register of the Presidency Court of Sudder Dewanny Adawlut, dated 20*th September*, 1839.

No. 1251.
A suit for the recovery of damages in

I am directed to request, that you will lay before the Calcutta Court the accompanying copy of a letter from the commissioner in Kamaon, and of a petition of plaint,

* For summary cases, see construction 216.

and that you will obtain the Court's opinion, with reference thereto, whether a suit for the recovery of damages in the civil court can be legally entertained against a party who has been already punished for abduction by the award of a criminal tribunal.

the civil court can be legally entertained against a party who has been already punished for abduction by the sentence of a criminal court.

2. This Court are disposed, on a review of the case out of which the present reference arose, to consider that as the penal imposition of fine and award of imprisonment in the criminal court were on account of the abduction of the complainant's wife, such criminal sentence does not bar the institution of a civil suit for any pecuniary losses alleged to have been sustained by the husband in consequence of the act so punished; and, should the Presidency Court concur, they will inform Mr. Lushington accordingly, and adopt the principle as a rule in future.

To the Officiating Register of the Sudder Dewanny Adawlut, North Western Provinces, from the Officiating Commissioner of Kamaon.

In reply to your letter of the 5th instant (acknowledging the receipt of mine of the 15th ultimo,) relative to a point of law in cases of seduction, I have the honor to state that the facts of the case which gave rise to that reference were as follows.

2. A sepahee of the 61st regiment, now stationed at Almora, had enticed away the wife of a bunya of this district, and the latter in consequence preferred a complaint to the junior assistant in the criminal court. After some delay and recusance on the part of the sepahee, the woman was produced in court; and the fact of her having been enticed away by the sepahee appearing to be established, the assistant proceeded to pass sentence on the prisoner, but instead of the punishment and fine, authorized by Regulation VII. of 1819, awarded damages to the husband in lieu of losses alleged to have been sustained by him. A petition having been presented to the senior assistant, complaining of this decision, the case was revised by him and a sentence of fine and imprisonment passed, viz. six months' imprisonment and 100 rupees fine, commutable to six months' further imprisonment in the event of non-payment, but the fine was made *conditional on the plaintiff failing to obtain a decree in the civil court for damages.*

3. Since my letter to the Court, the case has been appealed to me by the sepahee, and the punishment of imprisonment and fine upheld; for as far as I am able to judge, the offence of enticing and taking away a married woman is established against him.

4. It now remains for the Court to decide whether a civil action for marriage expenses can be instituted against this sepahee, who has already been punished criminally. The Kamaon rules are silent on the subject, and I have in vain searched the Regulations of Government for any rule by which to shape my opinion.

The Calcutta Court, on the 1st November, 1839, concurred.

Held on a reference from the judge of Jessore, that the Courts of Sudder Dewanny Adawlut are not included in the rule contained in Sections 14 and 15 of Regulation VIII.

No. 1252.

1831
Reg. VIII.
Sec. 14 and 15

1831, which refer exclusively to the zillah and city courts and to the courts subordinate to them.

Calcutta Court, 27th September, 1839.
Western Court, 31*st October*, 1839.

No. 1253.

It is competent to the Nizamut Adawlut to enhance the sentence of a sessions court on the appeal of a prisoner.

A petition of appeal having been presented on behalf of a prisoner sentenced by the sessions court to imprisonment for seven years, the Nizamut Adawlut called for the proceedings and after revising them annulled the sentence of the session judge, and sentenced the prisoner to imprisonment for fourteen years. On an application for a review of the Court's sentence, on the ground that it is opposed to the practice of the Court to enhance a sentence on the appeal of the prisoner, it was held that the enhancement of a sentence under the circumstances stated is fully within the competency of the Court.

Calcutta Court, 4th October, 1839.
Western Court, 31*st October*, 1839.

No. 1254.

1814
Reg. XXVIII.
Sec. 12, Cl. 1. and
Sec. 5, Cl. 1.

On an application to the Sudder Dewanny Adawlut, made on the part of a guardian of a deaf and dumb person, appointed under Regulation I. 1800, to be allowed to appeal *in formâ pauperis* on behalf of his ward by presenting his petition through an authorized agent, it was held that a petition to be allowed to appeal *in formâ pauperis* cannot be received, through an agent, from any person not being a female of the rank and description stated in clause 1, Section 5, Regulation XXVIII. 1814.

Calcutta Court, 4th October, 1839.
Western Court, 8th November, 1839.

No. 1255.

1812.
Reg. V Sec. 16.
1839.
Act I.

Held on a reference from the judge of Tirhoot, that as the power to receive security, in cases of distraint for arrears of rent, was conferred on moonsiffs under Section 16, Regulation V. 1812, in virtue of their office as commissioners for the sale of distrained property, that power necessarily ceases with the withdrawal of the commission under the operation of Act I. of 1839.

Calcutta Court, 18*th October*, 1839.
Western Court, 22d November, 1839.

No. 1256.

1793
Reg. IX Sec. 4,
1803.
Reg. VII Sec. 15,
Cl. 1.

Decided by the Government, in concurrence with the Western Court, that if the evidence for the prosecution in a criminal trial is, in the opinion of the session judge and assessors, or law officer, clearly *insufficient* to prove the charge against the prisoner, it would be superfluous to proceed with the defence. If, on the other hand, the witnesses for

the prosecution should make any statement which, supposing it to be credited, might tend to inculpate or criminate the accused person, the trial must be completed in the ordinary way.

Western Court, 31*st October*, 1839.
Secretary to Government, Judicial Department, 10*th March*, 1840.

With the concurrence of the Western Court, the following letter dated 1*st November*, 1839, *was written to the Additional Judge of Chittagong by order of the Calcutta Court, in reply to a reference made by that officer.*

No. 1257.

Rule regarding the competency of moonsiffs to try suits for damages in respect to marriage on account of breach of contract, or in regard to slander.

In continuation of my letter No. 2340, of the 23d August last, I am directed to communicate to you the Court's opinion that suits involving indemnificatory claims to an arbitrary amount of damages, in respect to marriage, on account of breach of contract, or in regard to slander on account of loss of character, are not cognizable by moonsiffs.

2. Supposing, however, a claim to be preferred on account of a specific loss sustained by expenses actually incurred in prosecuting a marriage afterwards broken off, such claim should not be included in the prohibitory rule, but should be regarded in the light of any other claim to money or personal property, within the competency of a moonsiff to decide, under clause 2, Section 5, Regulation V. 1831.

3. The principle of the prohibitory rule, it should be observed, consists in the exclusion from the jurisdiction of a moonsiff, of all suits in which, though the claim may be defined, the amount to be awarded is arbitrary and at the discretion of the tribunal trying the suit, constituting a license which it would be inexpedient to accord to a native functionary of that grade, an objection to which a fixed and definite claim for a certain sum actually expended is not liable.

November 1*st*, 1839.

No. 1258.

1814
Reg XXVIII.
Sec. 2.
Construction 621.
10th January 1831.

Held on a reference from the judge of Chittagong, that in a pauper suit, after the payment of vakeel's fees, as prescribed by Construction 621, page 3, vol. II. the dues of Government in respect to stamp expences have the next claim, since there is no reason why the pauper plaintiff who has gained his cause, should have any advantage in this particular over other suitors who have to pay beforehand; but, after the payment of the Government stamp dues, the principle of the abovementioned construction, that the order of satisfying claims is determinable by the circumstances of the case, is applicable to any other costs which may be incurred by Government as well as to claims of other parties.

Calcutta Court, 1*st November*, 1839.
Western Court, 6*th December*, 1839.

No. 1259.

Rule regarding the power of a moonsiff to call for the record of a case from another court.

Held on a reference from the judge of Mymensing, that a moonsiff has the power to call for the record of a case from any court, (such call being made through the judge of the district to which he is attached,) whenever any peculiar circumstances may render it necessary for him to do so: but that in general if any particular paper is required, the party who wishes to file it should obtain an attested copy in the usual manner.

Calcutta Court, 1st November, 1839.
Western Court, 6th December, 1839.

No. 1260.

1830
Reg. VII. Sec. 7, Cl. 2.

On a reference from the judge of Cuttack, it was decided by Government, in concurrence with the opinion of the Western Court, that clause 2, Section 7, Regulation VII. 1830, is applicable only to sales of estates permanently assessed.

Western Court, 1st November, 1839.
Secretary to Government, Judicial Department, 16th January, 1840.

From the Judge of West Burdwan to the Register of the Presidency Court of Sudder Dewanny Adawlut, dated 26th September, 1839.

No. 1261.

1819.
Reg. II Sec. 30.
1831.
Reg. V. Sec. 3, Cl. 8.

With reference to the provisions of Section 3, Act XXV. 1837, and to para. 3 of the circular orders of the Court, No. 478, dated the 23d February, 1838, I have the honor to request that I may be favored with the opinion of the Court on the following point:

2. In the event of its appearing, in the course of the investigation, either by this court, or by the principal sudder ameens, of an appeal from the decision of a moonsiff, that the matter at issue is of such a nature as to render a reference to the collector, under the provisions of Section 30, Regulation II. 1819, necessary,—is the appellate court competent to make this reference, while the suit is pending in appeal, or would it be necessary that the suit should be tried *de novo*? I have been induced to apply for instructions on this subject, from having observed that the principal sudder ameens are in the habit of remanding such suits for re-trial to the *moonsiffs*, notwithstanding that the latter have no authority to order the collector to investigate and report on them.

To the Judge of West Burdwan, dated 3d January, 1840.

In continuation of my letter No. 3031, of the 1st November last, I am directed by the Court to observe that, under the spirit of clause 3, Section 3, Regulation V. 1831, a moonsiff cannot legally receive a suit of a nature requiring a reference to the collector under Section 30, Regulation II. 1819; and therefore that a principal sudder ameen, having before him a suit of that description in appeal, should send the case to the judge under the circular of the 14th June last, recommending the annulment of the moonsiff's decision, and the return of the case to that officer on the ground that he ought to have rejected the suit in the first instance, as illegally instituted, and in order that he should now follow that course.

The Western Court, on the 6th December, 1839, *concurred.*

16th Nov. } 1839.
6th Dec. }

No. 1262.

On a reference from the judge of 24-Pergunnahs, it was held that a moonsiff is competent to ascertain the fact of resistance of a process of his court or other contempt, and to determine the amount of fine (not exceeding 200 rupees) which in his opinion ought to be levied on the offender: but that, prior to proceeding to levy such fine, he should report the case for the orders of the judge.

Reg. [illegible]

Para 10. Circular Order S. D. Adawlut, No. 91 — Western Provinces, 16th July, 1833—Lower Provinces, 1st November 1833.

Western Court, 16*th November*, 1839.

Calcutta Court, 3*rd January*, 1840.

No. 1263.
1837.
Act, XVII. Sec. 5.

Held that the mere act of writing a letter which is forwarded by a private post does not necessarily subject the writer of it to punishment as an accessary to its conveyance.

But if A delivers a letter to B, for the purpose of his conveying it by post for hire from one place to another, and B so conveys it, A is an accessary before the fact to such conveyance within the meaning of Act XVII. 1837.

Western Court, 22*d November*, 1839.

Calcutta Court, 3*rd January*, 1840.

No. 1264.
1834
Reg. II. Sec 3, Cl. 1.

Held on a reference from the magistrate of Benares, that it is competent to a magistrate in cases where, under Regulation IX. of 1807, or other enactments, he may pass sentence of imprisonment for a term and fine, awarding, in default of payment of such fine, a further term of imprisonment with labor, to commute that labor to a fine, or in other words, to make that labor redeemable by payment of a fine.

Held further, that if labor be not awarded in the former division of the sentence, it ought not to be awarded in the other; but that if awarded in the former, it would be redeemable by payment of a fine in both.

Western Court, 6*th December*, 1839.

Calcutta Court, 3*rd January*, 1840.

No. 1265.
1819.
Reg. VII.
1831.
Reg. V. Sec. 18, Cl. 6.

Decided by the Government, in concurrence with the Western Court, that all cases under the provisions of Regulation VII. 1819, are referrible to the principal sudder ameen for investigation and report.

Western Court, 6*th December*, 1839.

Secretary to Government, Judicial Department, 10*th March*, 1840.

No. 1266.

Period allowed for execution of a summary decree for arrears of rent.

Held on a reference from the judge of Hooghly, that, under the exfsting law, execution of a summary decree for arrears of rent may be taken out within twelve years from the date of such decree.

Calcutta Court, 9th August, 1839.
Western Court, 6th September, 1839.

No. 1267.
1793
Reg IX Sec. 47.

Held on a reference from the session judge of Chittagong, that when the evidence for the prosecution in a criminal trial is, in the opinion of the session judge and assessors or law officer, clearly *insufficient* to prove the charge against the prisoner, it is unnecessary to proceed with the defence; but that if, on the other hand, the witnesses for the prosecution make any statement which, supposing it to be credited, might tend to inculpate or criminate the accused person, the trial must be completed in the ordinary way.

Calcutta Court, 4th October,
Western Court, 31st October, } 1839.

No 1268.
1833
Reg. XII.

Competency, in a special case, of the manager of the property of an absent party, to appoint special agents under Reg. XII. 1833.

A, before his departure on a pilgrimage to Mecca, appointed B his attorney, with general powers of management and superintendence of his property during his absence. The power of attorney executed by A further empowers B to defend all suits in the civil courts, to appoint and remove mooktears or agents, and specifically provides for the appointment of vakeels or pleaders, without any specification as regards the appointment of agents under Regulation XII. 1833. Held that a person vested with the management of the property of an absent party, under a document of the abovementioned nature, is competent to appoint special agents under Regulation XII. 1833, on behalf of his principal.

Western Court, 20th December, 1839.
Calcutta Court, 20th March, 1840.

No. 1269.
1814.
Reg. XXVI Sec. 4

Held that the order of a zillah judge dismissing a suit on default, or without any investigation of its merits, is open to review under the provisions of Section 4, Regulation XXVI. 1814.

Western Court, 3rd January.
Calcutta Court, 7th February.

No. 1270.
1812
Reg. XX Sec. 5.

Held that security bonds for the eventual payment of costs of suit, may be registered under the provisions of Section 5, Regulation XX. 1812.

Calcutta Court, 10th January.
Western Court, 28th February.

No. 1271.

Circular Order, No. 197, Lower Provinces 13th January, and Western Provinces 10th February, 1837.

Held on a reference from the judge of Futtehpore, that as the ameens appointed under the circular order of 13th January (Western Provinces, 10th February) 1837, are ministerial officers of the zillah courts, it is competent to a zillah judge to pass an order for the dismissal of an ameen, of his own authority, subject to the usual appeal allowed by law.

Western Court, 16th January.
Calcutta Court, 2d February.

No. 1272.

Mode of valuing ryotts' holdings in civil actions.

Held that suits instituted with a view to fix the jumma of ryotts' holdings should be laid at one year's rent.

Calcutta Court, 31st January.
Western Court, 19th June.

No. 1273.

1818

Reg XII Section 2. Clause 5, and Section 3, Clause 4.

Held on a reference from the session judge of Behar, that it is not competent to the magistrate to sentence a prisoner convicted of burglary, who has been previously convicted of cattle-stealing, to the punishment prescribed in Clause 5, Section 2, Regulation XII. of 1818; but that it is imperative on the magistrate to commit him for trial to the sessions court.

Held further, that it is competent to the magistrate to sentence, under Clause 4, Section 3 of the above cited Regulation, a prisoner convicted of cattle-stealing, who has been previously convicted of the same offence.

Calcutta Court, 28th February.
Western Court, 27th March.

No. 1274.

Magistrates competent to punish the offence of using short weights, but cannot prescribe a current standard of weight.

Held on a reference from the session judge of Seharunpore, that the offence of using weights and measures short of what is recognized as the current standard of the place or district, is punishable as a fraud by the magistrate under the general regulations. The magistrate, however, cannot prescribe a current standard of weight.

Western Court, 28th February.
Calcutta Court, 27th March.

From the Register of the Western Court to the Register of the Calcutta Court, dated the 6th March 1840, *No.* 493.

No. 1275.

1831

Reg IX. Sec. 3.

1837.

Act XXIV. Sec. 6.

Competency of the Nizamut Adawlut to

I am directed to transmit the accompanying abstract of a case involving a question of jurisdiction raised by the session judge of Benares, and to request that you will obtain the opinion of the Calcutta Court, in respect to the competency of this Court to interfere therein under the law.

This Court hold that they possessed jurisdiction in the case.

pass orders on incidental matters arising out of a criminal trial held by the magistrate, appealed to the session judge, and finally to the Nizamut Adawlut, notwithstanding the provisions of Section 6, Act XXIV of 1837, declaratory of the finality of the session judge's orders in any judicial proceeding other than a criminal trial.

ABSTRACT.

Hurdewa and Mussamat Deya, Petitioners.

Mussamat Meha Koonwurree representing herself as the wedded wife of the son of Thakoor Diaram Sing, of Allyghur, (stated by the latter to be his son's concubine,) eloped with Hurdewa, who was accompanied by his sister Deya. After travelling through various parts of India, they recently reached Benares, where Mussamat Meha Koonwurree complained against her paramour, charging him with an attempt to poison her. In the course of her deposition she stated that certain ornaments, five gold mohurs and thirty-five rupees, which were found on the person of the prisoner, were her property which she had entrusted to his charge.

2. The magistrate acquitted the prisoner of the charge preferred against him, and ordered his release, awarding to the prosecutrix that portion of the ornaments which, by the prisoner's confession, was her property, and directing the delivery of the money to the prisoner in whose possession it was found.

3. Against this order the prosecutrix appealed to the session judge, who confirmed so much of the magistrate's decision as related to the charge on which the prisoner had been apprehended, but reversed that portion which had reference to the property found on the person of the prisoner,* nearly the whole of which he ordered to be delivered to the prosecutrix, on the ground that the income of the prisoner was not such as to warrant the belief that he could own so much property, whereas prosecutrix was the wife of a respectable person.

* A knife, brass cup, dhotee, and a small sum, necessary to carry the prisoner home, were awarded to him, which however he refused to receive.

4. From this decision the petitioners appealed to this Court, who called for the record of the case and required the session judge to explain on what grounds he entered upon the investigation of the ownership of the property and ordered delivery thereof to the party considered by him to be the owner, after the prisoner had been acquitted of the crime for which he was apprehended, and the magistrate had directed the delivery of the property to the party with whom it was found.

5. The session judge, with reference to Section 3, Regulation IX. of 1831, and Section 6, Act XXIV. of 1837, denied the jurisdiction of the Court.

6. In reply, the Court saw no reason to alter their opinion in respect to their competency to interfere. They observed that if the mistress had applied to the magistrate to compel the servant to give up her property, and, on that officer's refusal to interfere, the session judge had ordered the delivery in appeal, his view of the case not being open to the Court's revision might have been more correct. Here, however, the case came before the magistrate as a criminal trial, and, the accused being considered entitled to release, the magistrate very properly returned the property to the parties from whom it had been taken by the police officer, with the exception of so much as the party on whom it was found consented should be made over to the complainant. The case was not a miscellaneous one, but involved the carrying out of an order in a criminal trial, which order, directing the release of the accused, required that matters should be placed in the same position they were in prior to the interference of the police.

7. In rejoinder the session judge stated that the order of the magistrate relative to the contested property was separate and distinct from his proceeding in the criminal case, and that it came before him in appeal as a miscellaneous case, the magistrate having himself made the award of the property a separate matter.

The Calcutta Court concurred, 3d April, 1840.

No. 1276.

The civil court is not competent to require from the magistrate delivery, on civil process, of the person of a prisoner after the expiration of his imprisonment in the criminal jail.

Held on a reference from the judge of Mymensingh, that the civil courts cannot require the magistrate to deliver up, after the expiration of his term of imprisonment, a prisoner against whom a process had been taken out while yet in confinement; and that the process should issue, on the release of the prisoner, according to the established form.

Calcutta Court, 20th March.
Western Court, 24th April.

No. 1277.

1837.
Act XXV. Sec. 5,

Held on a reference from the judge of Rungpore, that as suits for personal damages and rent-free lands, as well as those enumerated in Clause 2, Section 13, Regulation XXIII. 1814, even though the value of these may not exceed 300 rupees, are not within the competency of the moonsiff to try, they cannot fall under the rules of Section 5, Act XXV. 1837, and therefore on being referred to the sudder ameen are subjected to the stamp duty prescribed for his court.

Calcutta Court, 10th April.
Western Court, 24th April.

No. 1278.

1829
Reg. X Schedule B. Article 7.

Held on a reference from the judge of Allahabad, that parties, objecting to the sale or transfer of property in execution of decrees, may petition the moonsiffs' courts on plain paper.

Western Court, 5th June.
Calcutta Court, 26th June.

No. 1279.

1829.
Reg. X Schedule A, Articles 4, 5, and 6.

The following question arose out of a case in the Court of Sudder Dewanny Adawlut for the Western Provinces.

A, a resident of Shajehanpore, purchases of B, a shroff of the same place, a hoondee for a certain amount, payable in Calcutta, at the kootee of a Calcutta banker C, and sends it, in payment of a debt or otherwise as the case may be, to D; D presents it to C for acceptance, and, after acceptance, negotiates the hoondee to E; eventually, on presentation, the hoondee is not paid by C: E recovers the amount from the last endorser D, who returns it to A, who sues B, in the court of Shajehanpore, for the amount.

Can the hoondee be admitted as evidence, in the above suit, on plain paper? or, it having been negotiated while in Calcutta, between D and E, must the instrument be stamped, or a copy be affixed to it engrossed on a paper bearing the prescribed stamp?

Held by a majority of both Courts, that the hoondee, having been negotiated after acceptance, could not be admitted in court as a legal instrument, except on stampt paper, or with a copy on paper bearing the prescribed stamp.

Western Court, 19*th June.*
Calcutta Court, 14*th August.*

From the Register of the Western Court to the Register of the Calcutta Court, dated 26*th June* 1840, *No.* 1398.

No. 1280.

Held as a general rule that the examination of absent witnesses cannot be received on a criminal trial, and that their personal attendance is necessary.

I am directed to transmit to you, for the purpose of being laid before the Calcutta Court, for their consideration and opinion in regard to the general question of the legal necessity of the *personal* attendance of witnesses on a criminal trial, the accompanying copy of correspondence* noted in the margin, with the following remarks.

2. The Government of the North Western Provinces, with advertence to the particular instance in point, where the officer officiating as civil surgeon is under the orders of a military commandant, and resident at a different station from that of the sessions court, and cannot without inconvenience be required personally to attend before such court, although his evidence is declared by the session judge to be absolutely necessary for the ends of justice, appear to contemplate the admissibility, in the court holding the trial, of the medical officer's deposition on oath taken before the magistrate (of the station to which he is attached,) either the questions to be answered on oath being referred by the session judge, or the particular point being stated; and the Court are desired to explain what objection exists to the adoption of this course.

1803.
Reg. VII. Secs. 15, 17.

3. The reply this Court would propose to make to the above query is, that a statement so obtained could not be legally regarded as admissible evidence on a trial.

4. The law of civil jurisprudence recognizes the examination of witnesses absent under certain contingencies, on commission, and the reception of such written testimony on trial; and Section 17, Regulation VII. 1803, in providing for the course to be followed when "the attendance of any witness on the part of the prosecutor or prisoner, *whose evidence the law may not allow to be taken by commission*, cannot be obtained," or when "any witness cannot be found," appears to recognize the possibility of such a proceeding being legal on certain occasions in criminal cases likewise.

See Blackstone, chap 23 and following, Book III.

5. The instance in point, however, and similar instances, are clearly, in the opinion of the Court, of a nature making the *personal* attendance and *oral* evidence of the witness

* It has not been considered necessary to print the correspondence.

at the trial, indispensable. "In cases* of life no evidence is to be given against a prisoner but in his presence"—the only contingency in which "the information, being on the trial sworn to be truly taken (that is, to be the same as was taken without any addition or alteration,) may be given in evidence against the prisoner," being when the "witnesses are dead or not able to travel;" in other words, prevented from coming by the act of God, in which event the examinations thus taken *(on oath)* constitute the best and utmost evidence procurable. The recent Circular, No. 981, dated 27th March last, also, contemplates no other mode of supplying an equivalent to the evidence of the surgeon on trial, in the event of his "unavoidable absence," than his formal deposition taken previously on oath, and duly attested and proved, before the magistrate, and filed with the papers of the case committed for trial.

* 2 Hawkin's Cl. 46, and 1 vide Burn's Justice Heading Evidence Sec. V.

6. In the above instances, moreover, *physical inability* to attend in person is supposed; and no minor ground regarding convenience is at all contemplated, such as is asserted in the present case; while the weight to be allowed to statements so obtained is expressly declared by law to be limited and contingent.

7. The Court further remark that the reception of evidence in the mode contemplated would be inconsistent with the letter of the law, which† declares that the evidence on the part of the prosecutor, the prisoner's defence, and any evidence he may have to adduce, *shall all be heard before him*, and‡ also that "in order to lead to the discovery of the truth, the parties shall be allowed to cross-examine the witnesses."

† Cl. 1, Sec 15, Reg. VII., 1803.

‡ Cl. 2, Sec 18, same Regulation.

8. The Court will be glad to be favored with a communication of your Court's views on the question at an early date, in order that the trial before the Mynpoorie sessions court may not be postponed for a longer period than is necessary.

The Calcutta Court concurred, 7th August 1840.

No. 1281.

1817.
Reg XX. Sec 21, Cl. 2, and Sec. 33.

In concurrence with the Western Court, the following letter was written by order of the Calcutta Court, under date the 17th July 1840, in reply to a reference from the session judge of Dacca.

From the Register of the Calcutta Court to the Session Judge of Dacca.

I am directed by the Court, with reference to the observation in paragraph 2 of your letter No. 224, dated 28th April, that chowkeedars are to be considered in the light of zemindar's servants, to draw your attention to Clause 2, Section 21, Regulation XX. 1817.

2. As regards the general question touched upon in that letter, the Court are of opinion, that the zemindars are obliged to give, under certain prescribed penalties, the required information respecting dacoities, murders, and other crimes committed within the limits of their estates, which may come to their knowledge; and that it is not sufficient that the same information is received from the chowkeedars.

3. The mode in which the information shall be communicated, appears to be left to the discretion of the zemindars. In general the information should be supplied in writing; but if the zemindar has any secret information to give, he may wait on the magistrate personally for the purpose; and it is optional with him to send a servant to the magistrate or to the darogah, as he may see fit.

No. 1282.
1837.
Act XXV. Sec. 4.

Held on a reference from the judge of Mymensingh, that in a suit laid at a sum exceeding 5,000 rupees, but in which the principal sudder ameen gives a decree for a sum less than that amount, the appeal from the principal sudder ameen's decree lies to the Sudder Dewanny Adawlut.

Calcutta Court, 7th August.
Western Court, 26th August.

No. 1283.
1812.
Reg. V. Sec. 26.

Held on a reference from the judge of Mymensingh, that the provisions of Section 26, Regulation V. 1812, are not applicable to dependent talooks.

Calcutta Court, 7th August.
Western Court, 4th September.

No. 1284.
1832.
Reg. VII. Sec. 7.

Held that the mode of proceeding laid down in Section 7, Regulation VII. 1832, is to be followed in the case of defendants ordered into confinement by the principal sudder ameen, in execution of civil process, in suits exceeding 5,000 rupees.

Western Court, 7th August.
Calcutta Court, 4th September.

No. 1285.
1839.
Act IX. Sec. 1.

Held on a reference from the judge of Seharunpore, that the zillah judges cannot delegate to another authority the duty of making the enquiry contemplated by Section 1, Act IX. of 1839, in the case of parties applying to sue *in formâ pauperis.*

Western Court, 7th August.
Calcutta Court, 7th September.

No. 1286.
1799
Reg. V. Sec 7.

Held on a reference from the judge of Rungpore that hoondees or other obligations for the payment of money, appertaining to the estates of parties dying intestate, may be realized by the civil court on falling due, and the amount kept in deposit until the expiration of the period of 12 months specified in Section 7, Regulation V. 1799. But

28th Nov 1840.

the interference of the civil court should be limited to the simple presentation of instruments payable at a fixed period, the failure to present which would involve a risk of loss, and to the realization of monies indisputably due thereon, and not extend any further, or include the assertion and prosecution of denied or disputed claims.

Calcutta Court, 14*th August.*
Western Court, 4*th September.*

No. 1287.

Rule regarding the party by whom the stamp, for mochulkas or recognizances for securing attendance of the defendant in petty criminal cases, is to be provided.

Held on a reference from the magistrate of Chittagong, that mochulkas or recognizances should be required from defendants in petty cases, in order to secure their attendance, as seldom as possible; but that, if it appears necessary in any particular instance to require a mochulka from the defendant, the amount of the stamp for the same must be provided by the prosecutor,—to be refunded by the defendant at the conclusion of the case, if the magistrate consider it proper to order a refund.

Calcutta Court, 23*d October.*
Western Court, 13*th November.*

No. 1288.

1837.
Act XVII. Sec 5.

On a difference of opinion between the session judge and magistrate of Allyghur as to the meaning of the term "by post" in Section 5, Act XVII. 1837, it was held, in concurrence with the opinion of the session judge, that the mere conveyance of letters from place to place for hire or a consideration, constitutes the act made penal by the section quoted.

Western Court, 30*th October.*
Calcutta Court, 20*th November.*

No. 1289.

1839
Act XXVI Sec. 11.

Held that if a commissioner appointed under Act XXVI. 1839, have not subscribed the oath, required by Section 11 of that Act, *before an officer authorised to administer the same*, his proceedings are altogether illegal and invalid.

Western Court, 28*th November.*
Calcutta Court, 10*th December.*

8th Jan } 1841.
30th April }

No. 1290.

1825
Reg IV.
1828
Reg VIII.

The following question was submitted by the session judge of Hooghly: "A case has been before me in which the magistrate sentenced an individual to one year's imprisonment and to a fine of 50 rupees, or two months in default of payment; and further called upon the party to give security to keep the peace in the amount of 100 rupees for one year, or to be imprisoned for that period in default of furnishing it. This would extend the magistrate's jurisdiction beyond two years, and appears to me an infringement of the provisions of Regulation VIII. 1828. May I beg the favor of the Court's opinion on the point?"

It was held that Regulation VIII. 1828, does not in any way interfere with the power vested in magistrates by Regulation IV. 1825. Under this construction a magistrate is competent to punish to the full extent of the power conveyed by the former enactments, and, in addition to such sentence, to require the prisoner to furnish security, or be imprisoned for a year in default; the whole term of imprisonment not exceeding three years, if the demand for security be not complied with.

Calcutta Court, 8*th January*, } 1841.
Western Court, 8*th February*, }

No. 1291.

A civil court is not competent to entertain an action to contest the award of a military court of requests.

A. and B. have dealings within a military cantonment, but are not residents therein. A. sues B. in the military court of requests and obtains a decree, B. demurring to the jurisdiction; the award is enforced, and B. sues in the civil court for the recovery of the sum paid under the award.

Held that a suit of the nature mentioned cannot legally be entertained by a civil court.

Western Court, 13*th February*, } 1841.
Calcutta Court, 19*th March*, }

No. 1292.

1793.
Reg XVI. Sec 2.
1803.
Reg. XXI. Sec. 2.

Held that under the provisions of Section 2, Regulation XVI. 1793, principal sudder ameens are competent, with consent of parties, to refer suits to arbitration.

N. B. The question having reference only to principal sudder ameens, the reply was restricted to that class of judges.

Calcutta Court, 26*th March*, } 1841.
Western Court, 10*th April*, }

No. 1293.

1831.
Reg. V. Sec. 6, Cl. 4.

The written notification prescribed by Clause 4, Section 6, Regulation V. 1831, should precede the usual notice to defendant. Claimants coming forward in obedience to such proclamations are liable to bear a proportion of costs.

Western Court, 30*th April*, } 1841.
Calcutta Court, 30*th July*, }

14th May } 1841.
22d June }

No. 1294.

1831.
Reg. V. Sec. 19, Cl. 2.

Held that the order of a zillah judge dissenting from a principal sudder ameen, as to the propriety of a review of the latter's judgment on a reference made under Clause 2, Section 19, Regulation V. 1831, is final, and not open to revision on appeal to the sudder Dewanny Adawlut.

Calcutta Court, 14*th May*, } 1841.
Western Court, 28*th May*, }

No. 1295.

Rules regarding the imposition of fines by moonsiffs on their ministerial officers.

Held that a moonsiff imposing a fine on any of his ministerial officers, cannot proceed to levy it, without previously obtaining the judge's sanction, and by analogy cannot remit it without the permission of the same authority; but that, if the orders have not been recorded and signed by the moonsiff, the fine may be remitted by him without any such reference.

Calcutta Court, 21*st May*, } 1841.
Western Court, 18*th June*, }

No. 1296.

1837.
Act XVII.
Sec. 33 and 35.

Held on a reference from the session judge of Azimghur, that Sections 33 and 35, Act XVII. 1837, are not applicable to European British subjects resident in the Mofussil, as those persons have not by any act of the legislature been made amenable to the local authorities in the administration of the penal enactments of the Government of India.

Western Court, 21*st May*, } 1841.
Calcutta Court, 18*th June*, }

No. 1297.

1833.
Reg. XII.
Sec 2, Cl. 6.

On a reference from the judge of Jessore as to whether the provisions of Clause 6, Section 2, Regulation XII. 1833, extended to pauper suits, it was held that the rule was applicable to all suits in which private engagements exist between parties and pleaders.

Calcutta Court, 28*th May*, } 1841.
Western Court, 18*th June*, }

No. 1298.

No private engagement can absolve a landholder from the performance of such acts as by law he is bound to perform.

It was held, on the following reference from the magistrate of Tirhoot, that no private engagement between a landholder and another person can release the former from the due performance of such acts as he is bound by the regulations of Government to perform.

Para. 2. "The Court are aware that a great portion of the land in this district is leased to indigo planters, who are, with few exceptions, British born subjects. In the pottahs and kubooleats, containing the terms of these leases, there is invariably a clause inserted, to the effect that the theekadar or lessee shall be responsible for the due per-

formance of all those duties and obligations connected with the police, which by the Regulations are imposed upon the landholder. Now this engagement so far as the indigo planter is concerned is a mere mockery, inasmuch as there exists no law under which I can punish a British born subject for a breach of the Regulations referred to. The question therefore arises, whether an agreement of this sort is in any way binding upon the magistrate? whether the unauthorized substitution by the landholder of a deputy who is not amenable to particular laws, can be held to relieve the landholder from the responsibility which those laws impose upon him? It seems clear to me that it cannot, and that in such a case the magistrate must continue to look to the landholder as the responsible party. I should be glad however to have the Court's opinion upon the subject."

Calcutta Court, 28th May, }
Western Court, 22d June, } 1841.

No. 1299.

Mode of proceeding in the case of a decree founded on a collusive action, instituted with a view to evade execution of a just decree.

The judge of West Burdwan asked the opinion of the Sudder Dewanny Adawlut, in regard to the course to be pursued under the circumstances stated in the following extract from his reference.

Para. 2. "It appeared from the enquiry held by me in consequence of a petition presented to me by Dahooram Shaha, that on the 6th June 1840 he instituted a suit in the moonsiff's court at Sonamookhy against Gunness Gurrain for rupees 196-0-0, and that the latter, with a view to evade the execution of any decree that might be passed against him, got a relation of his own, named Gopal Gurrain, to file a fictitious suit against him before the moonsiff of Burjorah on the 5th of the same month, in which on the 8th idem he put in a collusive 'Iqbal dawee,' admitting the fictitious claim, and pledging the *whole* of his property in satisfaction of it, on the strength of which a decree was passed on the same day in his favour."

He was informed, that under the circumstances stated the aggrieved decree holder should be referred to a regular suit against the colluding parties, for all damages that he may have sustained by their fraudulent proceedings, pending the issue of which the whole of the property in question might be attached, and the interest of the decree holder protected.

Calcutta Court, 4th June, }
Western Court, 25th June, } 1841.

No. 1300.

1831.
Reg V. Sec. 6, Cl 4.

The enquiry to be made by the moonsiff, under the provisions of Clause 4, Section 6, Regulation V. 1831, is to be limited to the rights of claimants in the property actually sued for, and cannot extend to the entire estate of the deceased.

Calcutta Court, 18th June, }
Western Court, 9th July, } 1841.

No. 1301.
1829 Regulation X. Schedule B, Article 8.

A., having obtained a decree, points out certain lands for sale in satisfaction thereof, the property as he alleges of the defendant. B., a claimant, however, interposes his claim, which is allowed and the sale stopped, when A. is recommended, if he has still any claim, to file a regular suit. He accordingly brings a suit to obtain the sale of certain lands in realization of his decree. The question arises—how is A. to estimate the value of his suit, according to the note on Article 8, Schedule B, Regulation X. of 1829?

It was held that as the suit in question was brought, not for possession, but to obtain leave to sell the interests of the original defendant in the estate, and to appropriate the proceeds of sale in liquidation of A.'s claim; or, in other words, as the suit was for the amount that the estate would sell for, the value should have been computed at the estimated selling price, (or the amount of plaintiff's claim under the decree, supposing the selling price to have been in excess of that claim,) according to the 4th Clause of the note on Article 8, Schedule B, Regulation X. 1829, the suit being viewed rather as for an interest in malgoozaree land, not capable of valuation under the 1st Clause of the note.

Western Court, 25*th June*, } 1841.
Calcutta Court, 16*th July*, }

No. 1302.
1834. Reg. II. Sec. 6

Held that it is not competent to a sessions judge to award stripes under Section 6, Regulation II. 1834, the law not contemplating such award by any other authority than the magistrate, the officer is directly responsible for the maintenance of the discipline of the jail.

Western Court, 2*d July*, } 1841.
Calcutta Court, 30*th July*, }

No. 1303.
1831. Reg. VIII. Sec. 6.

The provisions of Section 6, Regulation VIII. 1831, are held to be applicable to the summary decrees of the judicial authorities passed prior to the enactment of that law; that is, all regular suits to contest the summary awards of the judicial authorities should have been instituted within one year of the promulgation of that regulation.

Calcutta Court, 16*th July*, } 1841.
Western Court, 6*th August*, }

No. 1304.
1831 Reg. V. Sec 5. Cl. 2

Held that an *undefended* suit for an instalment below 300 rupees, on a bond for an aggregate sum above that amount, is cognizable by the moonsiff.

The same principle is applicable to an *undefended* action for an arrear of rent below 300 rupees, due on a farming engagement or lease of higher value.

Calcutta Court, 16*th July*, } 1841.
Western Court, 13*th August*, }

20th Aug. } 1841.
22d Oct. }

A contravention of the rule laid down in Clause 1, Section 6, Regulation VI. 1819, by parties contrary to order plying their boats in the vicinity of a Government ferry, held to be a misdemeanor punishable by the magistrate under the general powers vested in him by the provisions of Section 19, Regulation IX. 1807.

No. 1305.
1819.
Reg. VI Sec 6, Cl. 1.

Calcutta Court, 16*th July*—*Western Court*, 20*th August*, 1841.

A memorandum of agreement for the time of the services of a mokhtar, specifying a fixed sum as his monthly stipend in money, and guaranteeing to him his daily food, must be written on a stamp under the rule in Clause 2, Schedule A, Regulation X. 1829.

No. 1306.
1829
Reg. X. Schedule A, Cl. 2.

Western Court, 20*th July*—*Calcutta Court*, 20*th August*, 1841.

Held, on a reference from the session judge of Jessore, that appeals from the orders of a magistrate enforcing penalties under Clause 5, Section 10, Regulation XX. 1817, lie to the session judge, and not to the superintendent of police.

No. 1307.
1817
Reg. XX. Sec. 10, Cl. 5

Calcutta Court, 30*th July*—*Western Court*, 20*th August*, 1841.

A. prosecutes B. in the moonsiff's court for possession of real property in virtue of a deed of sale. *After* the suit is instituted but *before* its decision, the rights and interests of B. in the said property, are sold by the collector to C. in satisfaction of a decree of court.

No. 1308.
1814
Reg. XXIII Sec 25, Cl 3.

Has the moonsiff authority to receive an amended plea, including C. amongst the defendants; or can the judge give him such authority?

It was held that the application by the plaintiff to include C. as a defendant in his action, under the circumstances stated, is not of the nature of a supplemental plaint (which the moonsiff is not competent to receive) contemplated by the regulations, which provide a remedy for enabling parties to supply omissions arising from mistake, inadvertence, or other cause (Section 5, Regulation IV. 1793.) The case submitted does not embrace either the rectification of any error, or the supplying of any omission, but involves the competency or otherwise of a plaintiff to make application to the court, with a view to meet circumstances arising subsequently to the institution of the suit over which the plaintiff had no control whatever. It was ruled accordingly that the moonsiff is competent to receive an application from the plaintiff to include C. in his action, and to proceed with it accordingly.

Western Court, 28*th August*—*Calcutta Court*, 17*th September*, 1841.

Held that the provisions of Clause 5, Section 2, Regulation XII. 1833, are applicable to pauper as well as to other cases.

No. 1309.
1833.
Reg. XII. Sec. 2, Cl. 5.

Western Court, 15*th September*—*Calcutta Court*, 22*d October*, 1841.

No. 1310.

1823.
Reg VI Sec. 5, Cl. 4.

A question having been referred by the judge of Allahabad, whether it was intended by Clause 4, Section 5, Regulation VI. of 1823, to be ruled that the highest amount of penalty, including interest on the sum advanced, awardable against a contractor, is not to exceed three times the sum advanced; or whether the penalty may be to the amount of three times the sum advanced, and of any interest that may have accrued upon that sum, at the time of the suit being decided? It was held that the meaning of the enactment is that interest is included in the "three times the sum advanced."

Western Court, 24th September—Calcutta Court, 22d October, 1841.

No. 1311.

The civil courts cannot interfere with the estate of a lunatic, consisting only of personal property.

The estate of a lunatic consisting exclusively of personal property, there is no law which authorizes the intervention of the civil courts.

Western Court, 15th October—Calcutta Court, 5th November, 1841.

No. 1312.

1812.
Reg. V. Sec 7—10.
1822
Reg XI.
Sec. 32 and 33.
1840
Act IV. Sec. 4.

The magistrate of Nuddea was of opinion, with reference to Sections 7—10, Regulation V. 1812, and Sections 32 and 33, Regulation XI. 1822, that the auction purchaser of an estate could not cancel putnee talooks, created by the former proprietor, by merely attaching them, without having previously established his right to do so in a court of justice; and adverting to Act. IV. 1840, he saw no resource but to refer the auction purchaser to the "usual legal mode of obtaining possession."

Held that where, in a suit instituted under Act IV. 1840, an auction purchaser of an estate pleads that he is exercising his legal right, it will be the duty of the magistrate, under Section 10 of that enactment, to satisfy himself whether the contested tenure is of that description which is protected by law; and that, in cases in which the tenure is not of that description, the purchaser is not obliged to apply to any court for the enforcement of his rights.

Calcutta Court, 22d October—Western Court, 26th November, 1841.

No. 1313.

1814
Reg. XXVIII.
Case of a plaintiff having instituted his action originally on stampt paper, but pleading pauperism when required to file a supplementary plaint to amend his original plaint.

A. sues B., having paid the stamp duty and his wukeel's fees. Pending the trial, B. takes out execution of a decree, and sells A.'s landed property. After decision of the suit, A. appeals to the Sudder Dewanny Adawlut, and the case is remanded for retrial to amend the plaint, (in consequence of which amendment a higher stamp would be required and the amount of wukeel's fees, &c. considerably enhanced.) A.'s property having been sold in satisfaction of the defendant's decree, A. pleads that he is a pauper, and, therefore, unable to pay for the additional stamp required to fulfil the orders of the court. The principal sudder ameen, holding that a party cannot be admitted a pauper in the middle of the suit, not having been one at the commencement, strikes the case off the file on default. A summary appeal is preferred to the Sudder Dewanny Adawlut, and the question is, whether A. should have been allowed to carry on his suit as a pauper, after due inquiry made on that point, or should have been nonsuited and allowed to institute a suit *de novo* for the whole claim?

3d Dec 1841.
11th Feb. 1842.

It was held that, when a plaintiff, on the plea of pauperism, urges his inability to comply with the permission of the court to file an amended plaint, his pauperism should be inquired into, and, if established, his prayer granted; and that, supposing the suit to be pending before the principal sudder ameen or sudder ameen, and plaintiff to plead inability to give the amended plaint, the court before which the suit is should allow him time to present a petition to the judge, setting forth his pauperism, with a schedule of his property, when the judge would refer it to the principal sudder ameen, or investigate it himself.

Western Court, 3d December—Calcutta Court, 31st December, 1841.

The following questions having been submitted to the Court:

No. 1314.
1839.
Act IX.

"Under the provisions of Act IX. 1839, and Construction 1250, can a defendant (not being a pauper) appeal on plain paper against a decision passed in favor of a pauper plaintiff by the lower court?

"Also, is such defendant to be allowed to take a copy of the lower court's decree on plain paper, for the purpose of presenting it with his petition of appeal?"

It was held:

1st. That a decision passed in favor of a pauper plaintiff by the lower court cannot be appealed against by the defendant (not a pauper) on plain paper.

2d. That the appealing defendant may be allowed a copy of the lower court's decree on plain paper, for presentation with his petition of appeal.

Calcutta Court, 10th December, 1841—*Western Court, 10th January* 1842.

No. 1315.
1841.
Act XXIX. Sec. 1.

In cases in which the petition of appeal is filed in the Sudder Dewanny Adawlut, the date of institution of the appeal must of course be calculated from the day of filing the petition. In cases however in which the petition of appeal is presented to the court of original jurisdiction, the date of institution must be calculated under Section 3, Regulation XII. 1797, from the date of the filing of the petition of appeal in the Sudder Court, that is, from the date of the petition reaching the Court. From the date of institution in either case, as above stated, the appellant must, under the provisions of Section 1, Act XXIX. 1841, proceed within six weeks. The question arises what is "*proceeding with a case*?"

Ruled that the appellant must be held to have defaulted, and be liable to dismissal of his appeal, unless he appear in person or by vakeel, and file his reasons of appeal within the term (6 weeks) allowed, and that the mere appointment of a vakeel would not suffice to bar the liability referred to.

Calcutta Court, 31st December, 1841—*Western Court, 7th January*, 1842.

No. 1316.
1841
Act XX.

The following questions having been submitted by the judge of Delhi:

1st. Whether the petition for a certificate under Act XX. of 1841, should be on stampt paper, and of what value?

14th Jan. } 1842.
11th Feb. }

2d. Whether the petition for a certificate may be written either in the English or Urdu language?

3d. Whether the certificate should be issued on stampt paper?

It was held:

1st. That under Section 2 of the Act, petitions for certificates are required to be presented to the judge of the zillah or district court, and ought consequently to be engrossed on a stamp of the value prescribed in the 7th Article of Schedule B., Regulation X. 1829.

2d. That the petition should be couched in the official language prescribed by the legislature, that is, the vernacular, that objectors, who in the majority of cases will be those who are best acquainted with that language, may know the nature of the appellant's claim in order to answer it. Parties however, may, if they please, accompany such petition with an English translation.

3d. That neither in Act XX. 1841, nor in any other law is it provided directly or constructively that certificates of representation shall be written on stampt, they should therefore be granted on plain, paper.

Western Court, 14*th January*—*Calcutta Court*, 11*th February*, 1842.

No. 1317.

1793 Reg IV Sec. 6. 1803. Reg. III. Sec. 6.

On a reference from the judge of Ghazeepoor, as to the proper course to be pursued in the event of a defendant absenting himself, after having filed an answer to a plaint in an original suit.

It was held that under the rule of Section 6, Regulation IV. 1793, and Section 6, Regulation III. 1803, the proper course would be to affix in the court-house a notice of 8 days as therein directed, and, in the event of the defendant not appearing within that time, to decide the case ex-parte.

Western Court, 18*th January*—*Calcutta Court*, 11*th February*, 1842.

No. 1318.

1841 Act XXXI.

Held that all criminal appeals pending at the date of the promulgation of Act XXXI. 1841, must be disposed of with reference to the provisions of that Act.

Western Court, 28*th January*—*Calcutta Court*, 11*th February*, 1842.

No. 1319.

1841. Act XIX. Sec. 3.

Held with reference to the provisions of Section 3, Act XIX. 1841, that the complainant must appear in person to make the solemn declaration thereby required; and that such declaration cannot be made through an authorised agent.

Calcutta Court, 11*th February*—*Western Court*, 4*th March*, 1842.

No. 1320.

1793. Reg. XVI Sec. 2. 1803 Reg. XXI. Sec. 2.

Held that under the provisions of Section 2, Regulation XVI. 1793, sudder ameens and moonsiffs are competent, with consent of parties, to refer suits to arbitration.

Calcutta Court, 11*th February*—*Western Court*, 4*th March*, 1842.

G. H. Huttmann, Bengal Military Orphan Press.

No. 1321.

1814.
Reg. XXIII.
Sec. 27.
Cl. 1.
1841
Act XXIX.

On a reference from the judge of Moradabad, whether Act XXIX. of 1841, is to be considered as superseding the rule of procedure laid down for moonsiffs, in cases of default of plaintiffs, in Clause 1, Section 27, Regulation XXIII. of 1814, and whether it is therefore incumbent on moonsiffs to wait until the expiration of six weeks before dismissing suits for default:

It was held that Act XXIX. of 1841, does not repeal any clause or regulation allowing a moonsiff to dismiss a cause after a prescribed and notified time, on default of plaintiff, within the period of six weeks, but only provides for the disposal of suits by dismissal, which, under the rule heretofore in force, have been wont to remain longer than that term.

Western Court, 18th February; Calcutta Court, 8th April, 1842.

No. 1322.

1841.
Act XXXI.

Held, on a reference from the session judge of Azimgurh, that the words " sentence or order" in Act XXXI. 1841, do not refer to interlocutory orders in cases under trial, and that the provisions of the Act do not preclude the interference of the higher, with such intermediate orders of the lower courts.

Western Court, 18th March; Calcutta Court 1st April, 1842.

No. 1323.

Rule of calculating the period of appeal from orders of moonsiffs in miscellaneous cases.

Held, on a reference from the judge of Allahabad, that the period allowed for appealing from the orders of moonsiffs in miscellaneous cases, (copies of which orders are to be granted on plain paper,) should be calculated from the date of the order appealed from, deducting the interval that may elapse between the date of the copy being applied for, and its being ready for delivery.

N. B. The moonsiffs should always note on the copy the date of application for the copy, and that of its being ready for delivery.

Western Court, 26th March; Calcutta Court, 8th April, 1842.

No. 1324.

1817.
Reg. XVII.
Sec. 8.
Cl. 5.

Held, on a reference from the session judge of Agra, that the provisions of clause 5, section 8, Regulation XVII. 1817, are not applicable to cases of " administering intoxicating drugs, and theft."

Western Court, 21st March; Calcutta Court, 8th April, 1842.

No. 1325.

1835.
Act XI.

On a reference from the session judge of Behar, whether it is imperative upon a magistrate under the provisions of Act XI. of 1835, to sentence any person convicted of a breach of that law, to imprisonment in addition to fine? and whether, in the event of a

1326—1329. fine imposed under the above Act not being paid, the party mulcted is to be imprisoned for a further term in lieu of the fine, and for what period?

A reply to the affirmative was given to the first question, and in answer to the second the session judge was referred to Act II. of 1839.

Calcutta Court, 11th February; Western Court, 11th March, 1842.

No. 1326.
1841.
Act XXXI.

Held, on a reference from the session judge of Moradabad, that all appeals from a joint magistrate, of whatever powers, are appealable, under Act XXXI. of 1841, exclusively to the session judge, and that Construction 858 is consequently no longer in force.

Western Court, 12th February; Calcutta Court, 26th March, 1842.

No. 1327.
1841.
Act XXIX.
Sec. 2.

The judge of Moradabad having enquired, whether, with reference to the comprehensiveness of the wording of the provision contained in Section 2, Act XXIX. 1841, viz. "in all cases in which a suit or appeal is dismissed," costs are required to be awarded to respondents who shall have made answer and appointed a vakeel, without having been first summoned to defend an appeal, when such appeal may be dismissed under the Act in question:

It was held, that the contingency of the opposite party appearing without being summoned did not appear to be comprehended in the rule adverted to by the judge, inasmuch as till the said party be called on to "respond," he cannot in the strict meaning of the word be termed a "respondent." The judge was further referred to Construction 675, in which the designation is accordingly restricted to "opposite party."

Western Court, 18th February; Calcutta Court, 4th March, 1842.

No. 1328.
1814.
Reg. XXV.
Sec. 15.
1816
Reg. XVII.
Sec. 7.
Cl. 8.

Held, on a reference from the session judge of Patna, that in cases before the session court as trials, the session judge is competent, under Section 15, Regulation XXV. 1814, and Clause 8, Section 7, Regulation XVII. 1816, to order the dismissal of police officers convicted of any offence, which may appear to require their removal from public office.

Calcutta Court, 1st March; Western Court, 15th April, 1842.

No. 1329.
1819.
Reg. VII.
Sec. 5 & 6.

The following queries were submitted by the magistrate of the 24-Pergunnahs, to which the replies in juxta-position were given.

Questions.	Answers.
1. Can workmen, such as mistrees, moochees, or other artisans, be brought within the meaning of the enact-	1. There must be a stipulated term of service, or

ment quoted, supposing that they have taken advances from their employers and agreed to work for the same, without any stipulation as to the precise term or specification of the job that they are to perform?

2. By what magistrate are cases, under the above mentioned provisions, cognisable: the magistrate of the district wherein the agreement was entered into, or the work was to be performed, or that of the district wherein the delinquents reside, or to which they may decamp?

a contract for the performance of a specific work to render Section 5, Regulation VII. 1819, applicable to the cases alluded to.

2. Such cases may be prosecuted either in the district in which the agreement was executed, or in that in which the defendant resides.

Calcutta Court, 18*th March*; *Western Court*, 27*th May*, 1842.

No. 1330.
1841.
Act XXXI.

The following questions, relative to the law of appeal, in criminal cases, under Act XXXI. of 1841, referred by the session judge of Tirhoot, were both answered in the negative.

1. Supposing a party to appeal, the amount of whose punishment clearly gives him that right, can the session judge interfere with another sentence in the same case, which falls within the limitations prescribed by Sections 8 and 9, Regulation IX. 1793?

2. Supposing the party having an undoubted right to appeal, to fail or neglect to do so, can another party, in the same case, whose punishment falls within the limitations specified, be permitted to appeal?

Calcutta Court, 26*th March*; *Western Court*, 20*th May*, 1842.

No. 1331.
1829.
Reg. X.

The judge of Dacca having directed the return of a document written on plain paper, in order to have a stamp affixed, which the revenue authorities were of opinion did not require a stamp, it was held, on a reference from the former officer, that as the law vests the revenue local authorities, and the Board of Customs, Salt and Opium, with the power of determining points of the kind mooted, a deed declared by such authority, exempt from stamp duty, must be received by the courts.

Calcutta Court, 1*st, and Western Court*, 15*th April*, 1842.

No. 1332.
1841.
Act XXXI.

Held, on a reference from the session judge of Sylhet, that appeals under Act XXXI. of 1841, are not admissible unless preferred within one month from the date of

1333—1334. sentence or order, and that in this respect the law leaves no discretion to the appellate authority.

Calcutta Court, 1st, Western Court, 28th April, 1842.

No. 1333. 1840. Act IV.

The following letter, involving a reference as to the proper construction of Act IV. of 1840, in regard to certain cases of dispossession, was addressed by the magistrate of Budaon to the session judge of Bareilly, and by him forwarded to the Nizamut Adawlut for the Western Provinces.

Sir,—I have the honor to forward, for your inspection, certain cases of dispossession under Act IV. of 1840.

All these cases, you will observe, are disputes between zemindars and kutkenadars not for the possession of defined portions of land, but for the right of management and collection of rents and estates. Having great doubts whether the Act was intended to apply to such cases, I have to request your opinion on the subject.

I also forward three cases of a like description, decided by my predecessor, in which possession has been awarded to the kutkenadars, on the ground of their previous possession, without any reference to the zemindars' plea of their rights as landholders.

It occusr to me that, if these cases came under the description of those contemplated by the enactment, they should have been governed by Section 10 of the Act, and, instead of the zemindars being dispossessed, they should have been retained in the management of their estates, and the party desirous of ousting them from their undoubted privileges, referred to the court for a title to do so. As the case stands, the landholders who possess the right of attachment and ejectment, have been referred to the court for authority to exercise a power, which, in virtue of their position, they already possess. This surely could not have been the intention of the enactment, which, if I understand its meaning correctly, leaves still, as heretofore, all points involving the question whether the landholder has justly exercised his power, to be decided under the regulations, which grant him, under certain restrictions, the power of distraint and ejectment.

I have, &c.

Held, that the view taken in the above letter, in regard to the magistrate not possessing jurisdiction in cases of the nature mentioned, was correct.

Western Court, 15th April; Calcutta Court, 27th May, 1842.

No 1334. 1841. Act XXIX.

With advertence to that part of Act XXIX. of 1841, which makes the institution of a new appeal, after dismissal on default under Section 1, conditional on the party not being precluded by "lapse of time and period of appeal:" it was held, on a reference from the judge of Furruckabad, that the law being general, refers to all appeals; and that, con-

sequently, if an appellant to the zillah judge default under Act XXIX. 1841, and his case is, in accordance with its provisions struck off, his appeal is lost. 1335—1338.

Western Court, 15th April; Calcutta Court, 27th May, 1842.

Held, on a reference from the judge of Moradabad, that the provisions of Regulation XV. 1816, are applicable to native officers and soldiers of irregular corps on service in Affghanistan, that is, on foreign service. No 1335. 1816 Reg XV.

Western Court, 28th April; Calcutta Court, 20th May, 1842.

A suit, instituted in zillah Bhagulpore, having been transferred to zillah Purneah, under the provisions of Section 2, Act XXVII. of 1838, and by the judge of the latter district referred to his sudder ameen for trial:—it was held, on a reference from the judge of Purneah, that the appeal from the sudder ameen's decision will lie to the Purneah and not the Bhaugulpore zillah court. No. 1336. 1838 Act XXVII. Sec. 2.

Calcutta Court, 13th, and Western Court, 27th May, 1842.

The following questions were submitted by the judge of Tipperah, with reference to the Court's printed Circular Order No. 177, dated 31st December, 1841, (Western Court, 17th January, 1842,) relative to the duties and remuneration of ameens. No. 1337. Civil Circular Order, No. 177, Vol. III.

1. When the measurement of lands, in addition to other local enquiries, becomes necessary, may the court appoint a mohurrir and a nullee, or nullees, subordinate to the ameen, with allowances not exceeding those of the ameen, but in addition thereto?

2. In giving possession of lands, so extensive as to render it impossible for one ameen to complete the duty, within a moderate period, may the court appoint an assistant, or assistants, on separate allowances, not exceeding those of the ameen?

3. Has the court no power to appoint an ameen to give possession, with larger allowances than 12 annas per diem, however extensive the lands may be, and however important the duty?

The reply to the 1st and 2d questions was in the affirmative, and to the third in the negative.

Calcutta Court, 13th May; Western Court, 3d June, 1842.

On a reference from the officiating session judge of Mymensing, whether under the rule of Clause 2, Section 2, Regulation II. 1832, which prescribes that in cases of burglary and thefts, unattended with personal violence, the inquiry is optional, and rests with the injured party; such party is, notwithstanding, bound to give notice of the bur- No. 1338. 1832. Reg. II. Sec 2. Cl. 2

1339—1342. glary to the police: it was held, that the party suffering the injury is not bound by the law to make any report of the kind referred to, unless he should be a zumeendar, and have to report the occurrence in that capacity.

Calcutta Court, 13th May; Western Court, 10th June, 1842.

No. 1339.
1841.
Act XXIX.

On a reference from the judge of Allahabad, relative to the applicability, or otherwise, of the provisions of Act XXIX. 1841, to the moonsiffs' courts in the stage of a case *prior to the filing of the answer:*—the Courts of Sudder Dewanny Adawlut were of opinion that the Act in question, must be held applicable, in supersession of Construction 758, and that no suit can be struck off on default, prior to the filing of the answer, before the expiration of six weeks.

Western Court, 18th May; Calcutta Court, 10th June, 1842.

No. 1340.
1829.
Reg. X.
Sch. B.
Note to Art. 8.

Held, on a reference from the judge of Meerut, that in suits for fractional portions of malgoozaree estates, the valuation, according to the note at Article 8, Schedule B, Regulation X. 1829, is to be computed on a portion of the jumma of the entire estate corresponding with the fractional share sued for, and not, as has been the erroneous practice in some districts, according to the estimated selling price:—thus, for instance, if the suit be for a four anna share of an estate, assessed at 1000 rupees, and within the range of the perpetual settlement, the valuation will be 750 rupees, or three times the jumma (250 rupees) of the fractional portion.

Western Court, 18th May; Calcutta Court, 17th June, 1842.

No. 1341.
Rule regulating the course of procedure in the event of a decree holder transferring his decree to another party.

Held, on a reference from the judge of Futtehpore, that in the event of A endorsing over a decree passed in his favor to B, it is essential to the formal recognition by a civil court of such a transfer that A, the transferring party, should certify in person, or by mookhtar, appointed for that special purpose, either verbally, or by petition, his having made the transfer to B, whose name should then be inserted in place of that of the original decree-holder, in the execution of decree-process.

Western Court, 20th May; Calcutta Court, 17th June, 1842.

No. 1342.
1813.
Reg. VI.
Sec. 3.

The following letter was addressed to the judge of Nuddea, in reply to a reference from that officer:

"The Court having had before them your predecessor's letter, No. 216, of the 20th September last, direct me to observe that the award in question being dated 28th December 1840, the period of six months, within which parties are required by Section 3, Regulation VI. 1813, to apply to the courts for enforcing such awards, did not expire till the 29th June 1841. But as the 28th, the last day available to the petitioner in the

present case, was a holiday, together with the following day, the 29th, the Court hold that it was allowable to him to present his application on the next first court day." 1343—1347.

In considering the question raised by the judge of Nuddea, it was recognized as a general principle, that a party under legal obligation to move a court within a given period, may be allowed to postpone such motion to a day beyond the period, supposing the last day of the latter to be a Sunday or holiday.

Calcutta Court, 18*th, and Western Court*, 29*th March*, 1842.

No. 1343.

A suit cannot be proceeded with against a defendant who has left the country, and upon whom notice of action cannot be served.

On a reference from the judge of Chittagong as to whether a suit could be carried on against a party who had proceeded to England, it was held that a case cannot be tried *exparte* when it is known that the usual notice has not, and cannot, be served on the defendant.

Calcutta Court, 20*th May ; Western Court*, 17*th June*, 1842.

No. 1344.

1840.
Act IV.

Held, that an assistant to the magistrate vested with special powers is competent to dispose of cases under Act IV. 1840.

Western Court, 20*th June ; Calcutta Court*, 8*th July*, 1842.

No. 1345.

1813.
Reg. X.
Sec. 32.

Held, on a reference from the session judge of 24-Pergunnahs, that the mere keeping open of liquor shops at late hours is not within the meaning and intent of the terms "disorderly conduct," and consequently, not punishable by the magistrate under Section 32, Regulation X. 1813: but, that if any breach of the peace, or other misdemeanor occur, in consequence of such keeping open of the shops during prohibited hours, the conduct of the abkar may be considered disorderly, and himself, consequently, liable to the penalty provided for disorderly conduct.

Calcutta Court, 20*th May ; Western Court*, 1*st July*, 1842.

No. 1346.

1817
Reg. XII.
Sec. 24.
1819.
Reg. I.
Sec 3.
Cl. 2.

Held, on a reference from the judge of Purneah, that the rule in Section 24, Regulation XII. 1817, which requires putwarees to produce their accounts when required by the courts of justice, is applicable to the subordinate courts. Moonsiffs who may require to put the rule in force should send the putwaree with a proceeding to that effect to the zillah judge.

Calcutta Court, 24*th June ; Western Court*, 2*d August*, 1842.

No. 1347.

1840
Act IV.

Held, on a reference from the session judge of 24-Pergunnahs, that a magistrate is not authorised to attach lands, (paying revenue to Government, or under-tenures,) pending

1348—1350. the decision of a case under Act IV. of 1840, or to call on the collector to attach lands according to Regulation V. of 1827, before he has come to a decision in a case under the above Act.

Calcutta Court, 24th June ; Western Court, 2d August, 1842.

No. 1348.

1805. Reg. II. Sec. 2.

Rule of limitation in executing decrees passed in favour of Government.

On a reference from the additional judge of Benares, as to the right of Government to take out execution of a decree in its favor, after the expiration of 12 years from the date of judgment, it was held, that the terms of Section 2, Regulation II. 1805, which section declares claims on the part of Government to be cognisable by the courts if preferred within 60 years from the origin of the cause of action, have reference to "hearing, trying, and determining" by the courts of civil justice of all claims preferred on the part of Government, but do not extend to the case of claims already adjudged ; and that, therefore, Construction No. 136, declaring that decrees may be executed after 12 years, provided good and sufficient cause for the delay be shown, must be the rule of guidance in all cases, whether the decree be in favor of Government, or a private individual.

Western Court, 1st July ; Calcutta Court, 22d idem, 1842.

No. 1349.

Rule regarding illegal and forcible dispossession from moveable property and the magistrate's right of interference in such cases.

On a reference from the session judge of Azimgurh, as to the competency of a magistrate to interfere in a case of illegal and forcible dispossession of chattels, or other moveable property, with a view to restitution, it was ruled, that supposing the fact of illegal and forcible dispossession to have been established, the magistrate is competent to exercise interference in the case ; but, if the property should be found to have come into the possession of the party it was discovered with, without proof of any violence, or other illegal act in the acquisition, and such party detained it on the plea of some claim or lien on the property, the matter would then be one of civil, and not of criminal cognizance.

Western Court, 1st July ; Calcutta Court, 29th idem, 1842.

No. 1350.

1839. Circular Order. No. 30.

Regarding a decree-holder purchasing his debtor's property at public sale.

With reference to the printed Circular Order No. 30, dated the 18th January 1839, it was held, on reference from the judge of Midnapore, that a decree-holder purchasing his debtor's property at a public sale by the collector, for a higher sum than the amount of his decree, must deposit 15 per cent. on the whole amount of the purchase money, or the balance in full ; as should the balance above the amount of his decree not be paid, the sale falls to the ground, and the purchaser forfeits the earnest money on the sum total bid by him.

Calcutta Court, 15th July ; Western Court, 5th August, 1842.

Extract from a letter from the Judge of Backergunge, to the Register of the Presidency Court of Sudder Dewanny Adawlut, dated 11th July 1842.

1351.

No. 1351.
1793
Reg. XXXVI.

"Para. 2. A petition has been presented to this court by A, stating that—on the rejection, by the officer in charge of the registry office, of a deed of sale executed by him in favor of B, on the ground of a similar deed purporting to have been executed by him in favor of C, a third party, having been already registered by a person acting under A's mookhtyarnamah, duly attested and sworn to by witnesses,—A. applied by written petition to the officer before mentioned, alleging that the deed and mookhtyarnamah were both forgeries, and requesting that such proceedings should be taken as might protect his interest from prejudice, but that this petition was rejected without any reasons assigned. Now, as the order on the petition does not state whether any and what enquiry into the validity of the mookhtyarnamah was instituted, subsequent to the date of the petition, I should think the proper course for the ends of justice would be to direct the register to institute an enquiry, if it had not been done, both as to the mookhtyarnamah and deed of sale already registered, and, if they, or at any rate if the mookhtyarnamah, appeared to be a forgery, to cause the delinquents to be proceeded against by application to the judge for commitment for forgery, or perjury, or both, as might be warranted.

"3. I cannot however discover any thing in the Regulations authorising such interference of the judge with the proceedings of the officer in charge of the office for the registry of deeds; on the contrary, he is directed to bring any irregularities to the notice of Government, and therefore, particularly as the case is a novel one, I have decided on applying for instructions.

"4. Another point apparently requires to be cleared up: on the mookhtyarnamah, or registered deed, being proved before a competent tribunal to be a forgery, it would, I conceive, be the duty of the registering officer to cancel the registry already made, and to admit the deed now tendered to registry; would the judge be competent, under these, or any other circumstances, to receive an appeal brought with a view to compel the registering officer to register or cancel the registry of a deed on his refusal to do either?"

Extract from the reply of the Calcutta Court.

"The register should register the deed brought to him for that purpose, leaving it to the courts to declare which of the two deeds of sale is the true and valid document, whenever that question may be raised in a regular suit. The register, however, must satisfy himself of the identity of the party registering the deed, if the latter appear in person, or, if by attorney, ascertain the due attestation and validity of the mookhtyarnamah."

The Western Court concurred.

Calcutta Court, 22d July; Western Court, 12th August, 1842.

1352—1354.

No. 1352.
1812.
Reg. III.
Section 9.
Clauses 3, 4 and 5.

Held, on a reference from the session judge of Azimgurh, that the requisition by the magistrate from the zumindars of villages within a certain distance from that where an affray attended with homicide occurred, of certificates that the absconded offenders implicated in the affray, were not within the limits of their estates, was not warranted by the provisions of Clauses 3, 4 and 5, Section 9, Regulation III. 1812.

Western Court, 25th July; Calcutta Court, 19th August, 1842.

Extract from a letter from the Session Judge of Azimgurh, to the Register of the Nizamut Adawlut, North Western Provinces, dated the 2d of July, 1842.

No. 1353.
1841.
Act XXXI.

"The point which I wish determined is, what is the measure of a petty offence? that is, does every crime of every denomination which a magistrate may deem to deserve no larger penalty than that which he can inflict under Section 8, Regulation VI. 1803, thereby become a petty offence therein described or not? Two cases have induced me to refer this point. In the one A was convicted of contempt of court or resistance of process, and fined rs. 30 for his offence, which is specifically punishable by a higher penalty; does this thereby become a petty offence, and is the defendant thereby precluded from appeal? In the second case, B, a chowdry, was charged with extorting money by detaining unjustly C's cart, on pretence of being compelled to furnish conveyance for the despatch of treasure, and was fined a sum less than rs. 50. Extortion is a serious charge in itself; but in this case the magistrate deemed the case light; is this a petty offence wherein the sentence is conclusive, or not?"

Extract from the proposed reply of the Western Court.

"This Court would inform the session judge that, under the law as it exists, the magistrate must be the authority to determine the character of the offence, and the measure of punishment deemed commensurate thereto, always provided he exceed not the limitation prescribed by Sections 8 and 9, Regulation VI. 1803, and that consequently there can lie no appeal to the sessions court in either of the cases mentioned. Such an appeal would, moreover, have no result as respects the award of heavier punishment with reference to the prohibition of enhancement contained in Section 4 of the Act."

The Calcutta Court concurred.

Western Court, 25th July; Calcutta Court, 26th August, 1842.

No. 1354.
1832.
Reg. II.
Section 2.
Clause 2.

Held, on a reference from the session judge of Furruckabad, that though it is irregular under Clause 2, Section 2, Regulation II. 1832, for a police officer to make a local enquiry into cases of the nature therein specified without the written application thereby prescribed, it is not irregular in the magistrate to direct the police officer to make the enquiry, whenever he may consider such a step to be advisable.

Western Court, 5th August; Calcutta Court, 25th idem, 1842.

1355—1358.

Held, on a reference from the judge of Futtehpore, that parties instituting and defending suits in the Company's courts and who reside in a foreign state, but hold lands and other property within the limits of the British territories, must nevertheless find security for costs, under the provisions of Regulation XIV. of 1829.

No. 1355.
1829.
Reg. XIV.

Western Court, 5th August; Calcutta Court, 26th idem, 1842.

Held, by a majority of the Courts of Sudder Dewanny Adawlut, that orders passed by the zillah judges under Section 1, Act IX. of 1839, rejecting applications to sue *in formâ pauperis*, are appealable to the Sudder Dewanny Adawlut.

No. 1356.
1839
Act IX.
Section 1.

Calcutta Court, 22d July; Western Court, 19th August, 1842.

Held, on a reference from the session judge of Midnapore, that the decision of a principal sudder ameen, or sudder ameen, passed in a summary suit instituted under Regulation VI. of 1823, which has been referred to him for decision under Section 5, Act X. of 1836, is not appealable with reference to the rule of Section 6 of the former enactment.

No. 1357.
1823.
Reg. VI.
1836.
Act X.

Calcutta Court, 5th August; Western Court, 2nd September, 1842.

The following question was put to the Sudder Dewanny Adawlut for the North Western Provinces by the judge of Cawnpore:

No. 1358.
1829.
Reg X.
Sch. B.
Art. 8.

"I have a suit before me for possession of a Government 4 per cent. promissory note for 5000 Sicca rupees, and have some doubt whether the appeal should not have been made to the superior court."

Extract of a letter from the Register of the Sudder Dewanny Adawlut for the North Western Provinces.

"The majority of the Court do not think any legal objection exists to the judge hearing the appeal. They observe the suit is not brought for the recovery of 5000 Sicca rupees, but for a document valued at 5000 Company's rupees, and which, if now sold in the bazar, would certainly not realize the sum at which the suit is brought; it was pledged for rupees 4,600, the amount for which it is said to be redeemable is 4,930."

Reply of the Calcutta Court:

"I am directed by the Court to acknowledge the receipt of your letter No. 1557, of the 5th ultimo, and to state, in reply, that the suit in question having been brought to recover possession of a Government promissory note for rupees 5000, without mention of any currency, which amount is covered by a stamp of 150 rupees, and no objection

1359—1360. having been urged against the valuation in the court of first instance, the Court are of opinion, with the majority of the Western Court, that the appeal lies to the zillah court."

Western Court, 5th August; Calcutta Court, 2d September, 1842.

No. 1359.

1840. Act IV. Section 2. 1823. Reg VI. 1836 Act X.

The following question was submitted by the magistrate of Midnapore, through the session judge of that district.

"A, a ryot, complains against C, as likely to carry off indigo plant grown by him, and states himself to have received advances from, and to have grown the disputed plant for B, an indigo planter; C, likewise an indigo planter, declares that he has also made advances to A, and that A has cultivated plant for him too, which however A denies.

"Trying such a case under Section 2 of Act IV. of 1840, I conclude that A is the person manifestly to be considered in possession of the crop disputed, and is to be allowed to deliver the disputed plant to either B or C as he may think fit; and that an order may be given by the magistrate prohibiting C from attempting to take forcible possession: C of course will have his redress in the civil court against A or B, under Regulation VI. of 1823, and Act X. of 1836, and if he timely take his measures there, supposing his claim to be in reality a better one than that of B, he might upon giving security, on a summary enquiry, be enabled to cut and carry away the disputed plant, which seems to me to be sufficient for the protection of his rights."

The Courts of Nizamut Adawlut were of opinion that the magistrate had taken a correct view of the subject.

Calcutta Court, 5th August; Western Court, 2d September, 1842.

No. 1360.

Rule regarding the payment of deposits to vakeels.

Held, on a reference from the judge of Futtehpore, that money deposited in court as payable to a party, should never be paid to a vakeel, save under specific authority conveyed in the vakulatnamah; and that for any sums paid away in any other mode, the officers making the disbursement must be held personally responsible.

Western Court, 5th August; Calcutta Court, 9th September, 1842.

No. 1361.

1841 Act XXXI. Sec. 2.

Held, on a reference from the session judge of Cuttack, that the order of a magistrate inflicting fine, not exceeding 200 rs., under the express condition specified in Section 8, Regulation IX. 1793, is not appealable; but that it is incumbent on the magistrate, in passing an order of fine above 50 rs. under that enactment, to set forth that the person fined is in the condition mentioned; and that, in the absence of any such declaration on the part of the magistrate, any order of his directing the payment of a fine above 50 rs. is *primâ facie* appealable.

Calcutta Court, 19th August; Western Court, 9th September, 1842.

On a reference from the judge of Furruckabad, whether in a suit referred to the principal sudder ameen, under Section 5, Act XXV. 1837, that officer would be bound by the rules regarding tullubana for service of process and the receipt of supplemental proceedings, applicable to the court of the moonsiff:—it was held, that the law having made a specific declaration of the particular instances, viz. as regards stamp duties, and appeal, in which principal sudder ameens, acting in such a character are to be subject to the rules prescribed for the courts of the moonsiffs, the requirement must be held to be limited to the purport of that declaration, and that consequently, in the points instanced the principal sudder ameen would not be tied down by the restrictions imposed by law on the moonsiffs' courts.

No. 1362.
1837.
Act XXV.
Sec. 5.

Western Court, 26th August; Calcutta Court, 9th September, 1842.

Held that a civil court, authorised to admit supplemental proceedings, may allow one supplemental plaint or answer to be filed on the application of the party wishing to do so, but has no authority to dictate to the parties, and order one to be filed without such application.

No. 1363.
Rule regarding supplemental proceedings.

Western Court, 24th August; Calcutta Court, 23d September, 1842.

Held, on a reference from the session judge of the 24-Pergunnahs, that putneedars are included in the terms "landholders, proprietors, and farmers of land," made use of in Clause 4, Section 10, Regulation XX. 1817, and therefore liable to be called upon to perform the duties referred to in that clause.

No. 1364.
1817.
Reg. XX.
Section 10.
Clause 4.

Calcutta Court, 2d, and Western Court, 23d September, 1842.

Held that a thanadar is empowered by Sections 12 and 13, Regulation XX. of 1817, to enter upon an enquiry into a charge of rape preferred directly at the thannah—no complaint having been preferred in the first instance at the cutcheree of the magistrate.

No. 1365.
1817
Reg. XX
Secs 12 and 13.
1811
Reg. VII.
Sec. 3.

Western Court, 19th November; Calcutta Court, 9th December, 1842.

In a dispute between a proprietor of an estate, and a mortgagee of an orchard situated therein, the magistrate of Bareilly considering the possession of the latter to have been satisfactorily established, directed him to be maintained in possession. The proprietor appealed, and the session judge reversed the decision of the magistrate, directed him to maintain the proprietor in possession, and referred the mortgagee to the civil court.

No. 1366.
1840.
Act IV.
Regarding disputes between a proprietor and a mortgagee.

1367. The Western Court considered that the course adopted by the magistrate in the case in question, for the maintenance of the mortgagee in possession, till formally dispossessed by the usual process laid down in the regulations, was right.

The Calcutta Court concurred.

Western Court, 2nd, and Calcutta Court, 23d December, 1842.

No. 1367.
1842
Act X.

From the Register of the Western Court to the Register of the Presidency Court of Sudder Dewanny Adawlut, dated 22nd December, 1842.

I am directed to request that you will lay the accompanying copy of a letter No. 493, dated 1st instant, with its original enclosure, from the officiating commissioner of Meerut, before the Calcutta Court, for the opinion of the judges thereon.

2. On the several points, regarding which an interpretation of Act X. of 1842, is sought, this Court would answer as follows:

3. Differing from Mr. Begbie, the Court would restrict the meaning of the term "householder" used in the Act to *house-proprietor*, tenants not being included in the definition—an interpretation that seems obvious with reference to the provision, in Section 3, for the rate being raised by a per centage on the rent, or yearly value of the premises within the settlement, which could not be intended to be assessed by mere tenants of the property.

4. On the second point of enquiry the Court agree with Mr. Begbie as to the permanent character of the committee when once constituted, subject to the liability of dissolution contemplated in Section 8, and in respect to the rates being annually revisable at the discretion of the committee. In the third subject of enquiry also the Court concur with the commissioner.

5. With respect to the 4th question, the Court conceive that, under the terms of the Act, the committee in all its members would be jointly and severally responsible for any misappropriation of monies collected, to purposes foreign from those contemplated in the enactment; but they observe, that the fact, whether the act complained of, was or was not a "misapplication" of the nature described in Section 3, would be determinable on trial of the "civil action" provided by the same section.

From the officiating Commissioner of the 1st Division to the Register of the Court of Sudder Dewanny Adawlut, Western Provinces, dated 1st December, 1842.

I have the honor to lay before the Court, the accompanying letter to my address from Major Angelo, secretary to the local committee at Mussooree, proposing, for resolution, certain points of doubt entertained by the residents at that place, regarding the meaning and intent of Act X. of 1842.

2. The points discussed by Major Angelo, are four in number.

First. The meaning to be attached to the word "householder" used in the Act.

BENGAL SECRETARIAT LIBRARY

1368.

Second. Whether the application to be placed under the operation of the Act, is to be made annually, or only once, and the operation of the Act to be considered permanent when sanctioned by Government.

Third. The propriety of appointing the political agent at Dehra, and the resident magistrate, to be ex-officio members of the committee; and

Fourth. The degree of responsibility which will attach to the committee.

3. On the first point, it appears to me that the word "householder" must be understood *generally*, as comprehending both tenants and house-proprietors. I see no difference between tenants in the hills and tenants in the plains, the rents of houses being fixed by the proprietors for the season, and being generally as high or higher, than the annual rents of houses in the plains. I apprehend no injury to the proprietors of houses likely to arise from the rates being voted by the tenants; as the former always have it in their power to raise their rents; and it appears to me that the latter have an equal, if not greater, interest than the proprietors in maintaining the roads or other public works in good repair. The interests of the proprietors are moreover protected by the limit of taxation fixed by Section 3 of the Act.

4. On the second point, I conceive that when the Act shall have been once rendered operative, on the application of the householders, it must continue so permanently; and that a revision of rates should be made annually by the committee, with reference to the increase or decrease in the number of inhabited houses, and the rise or fall in rents.

5. Regarding the third point, I am of opinion that, with reference to Section 2 of the Act, the political Agent at Dehra, not "being an inhabitant of the place," could not be appointed a member of the committee. I see no reason, however, why the resident magistrate should not be nominated a member of the committee, if so desired by that body, during the time of his *actual* residence in the hills.

6. With respect to the fourth and last point of doubt, it seems to me clear enough, that the intent of Section 3 of the Act is to hold the committee responsible for any *fraudulent* misapplication of the money collected by them; and not for any mere error of judgment "in respect of any contract entered into by them *bonâfide* on behalf of the inhabitants."

The Calcutta Court concurred on the 20*th January*, 1843.

No. 1368.
1841.
Act XXIX.

On a reference from the judge of Cawnpore, it was held, in adoption of the rule of Circular Order of the Sudder Dewanny Adawlut, No. 25, dated 7th January 1831, that the interval of the established vacations must not be allowed to be deducted, in the calculation of the period beyond which default is incurred under Act XXIX. of 1841.

Western Court, 2*nd, and Calcutta Court,* 23*rd December*, 1842.

1369—1373.

No. 1369.

1825. Regulation IX. Section 3. 1822. Regulation VII. Sections 11, 12, 14 and 16 to 35. 1833 Regulation IX.

Held, on a reference from the judge of Ghazeepoor, that the Government are, by Section 3, Regulation IX. 1825, competent to authorise the revenue authorities, though not employed in revising settlements, to perform all the acts described in Sections 11, 12, 14, and 16 to 35, of Regulation VII. of 1822, in any specified tract within the provinces of Bengal, Behar, Orissa, and Benares, in the summary adjudication of suits between individuals; that the provisions of Regulation IX. 1833, are applicable to adjudications in such parts, made in conformity with those provisions; and that, therefore, the collector is competent to adjudge claims connected with disputed boundaries in those tracts.

Western Court, 27th January, and Calcutta Court, 10th February, 1843.

No. 1370.

1836 Act XXVI. 1841. Act XXXI.

Held, on a reference from the session judge of Delhie, that an appeal from the decisions and orders of a superintendent of police in the Governor General's camp, appointed under Act XXVI. of 1836, is cognisable by a session judge, in the same manner and under the same restrictions as appeals from the decisions and orders of a magistrate or other officer empowered to try criminal cases, are admissible.

Western Court, 17th, and Calcutta Court, 31st March, 1843.

No. 1371.

1833 Regulation IX.

Held, on a reference from the officiating judge of Jounpore, that the jurisdiction of the civil courts is only barred by the provisions of Regulation IX. of 1833, when the proceedings of the collector, or other officer, engaged in making settlements, are in conformity with the rules prescribed in the enactment; and that when a suit, brought to set aside the decisions passed and adjustments made by the revenue authorities, acting under the law quoted, is deemed admissible, it must be tried and decided, not with reference to the informality of the collector's proceedings, but on the merits of the plaintiff's claim.

Western Court, 7th November, 1842; *Calcutta Court, 17th March,* 1843.

No. 1372.

Circular Order No. 128, dated 2nd January 1835.

Held, on a reference from the officiating judge of Hooghly, that copies or extracts of merchants' accounts and books, to be kept with the record, must be made on stamps of the value of 8 annas per sheet.

Calcutta Court, 20th January, and Western Court, 6th February, 1843.

No. 1373.

1814. Regulation XXIII. Sec. 13, Cl. 2.

Held, on a reference from the judge of Rungpore, that the prohibition contained in Clause 2, Section 13, Regulation XXIII. of 1814, does not extend to summary suits; and that moonsiffs are competent to try the fact of possession, by a European, of land

attached by them in execution of decree, in the same manner, as they can enquire into the possession of lakhiraj land, as ruled by Constructions Nos. 798 and 1054. 1374—1375.

Calcutta Court, 27th January, and Western Court, 15th February, 1843.

No. 1374.

Construction No. 1135, dated 2nd November, 1838.

Held, on a reference from the officiating judge of Chittagong, that fines, not exceeding 50 rupees, must be made commutable by imprisonment (Section 111, Regulation X. 1819,) and the orders executed by confinement of the individual for the prescribed period, unless the fine be paid in the interim, when the party is entitled to his discharge ; and that if the fine exceed 50 rupees, but be not more than 400, (Section 31, Act XXIX. 1838,) and the order contain no provision for commuting the same to imprisonment, in default of payment, then the judge must proceed to realize the fine exactly in the same manner as he would do in the execution of a decree of his own court of the same amount as the fine imposed, taking care that the term of imprisonment in no case exceeds the scale laid down in Section 110, Regulation X. 1819.

Calcutta Court, 27th January, and Western Court, 17th February 1843.

No. 1375.

1825. Reg II. Sec 2, Cl 1. Reviews of orders of remand in regular appeals.

Held, by a majority of the two Courts, that a case, without trial of the merits, being remanded for irregularity, either party being desirous of a review of that order, after the expiration of three months, must move the Court by a petition, engrossed on a stamp of the value prescribed for petitions given after the period of three months by Clause 1, Section 2, Regulation II. 1825.

Western Court, 31st January ; and Calcutta Court, 24th February, 1843.

G. H. Huttmann, Bengal Military Orphan Press.

AN

INDEX

TO THE WHOLE

OF

THE CONSTRUCTIONS

BY THE COURTS

OF

Sudder Dewanny and Nizamut Adawlut,

OF THE

REGULATIONS AND LAWS

FOR

THE CIVIL GOVERNMENT

OF

THE TERRITORIES UNDER THE PRESIDENCY

OF

FORT WILLIAM IN BENGAL.

CALCUTTA:

G. H. HUTTMANN, BENGAL MILITARY ORPHAN PRESS.

1844.

ADVERTISEMENT.

THIS work is printed in quarto, to bind with Vol. III. of the Constructions, or separately if desired. Together with a list of every Clause and Section that has been construed, it contains the *substance* of the whole of the Constructions, arranged under appropriate heads, with notes to indicate the state of the law at the commencement of the year 1844. It is thus adapted for a substitute for the three volumes of the Constructions, for general purposes, besides serving as a means of tracing any Construction by its subject.

Since this Index was put to press, corporal punishment, in certain cases of theft, has been legalised by Act III. 1844.

*** The Roman numerals refer to the volume, and the Arabic figures to the page in which any Construction is to be found.

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2. The Nizamut Adawlut declined sanctioning the offer of pardon without having before them the information required by Clause 2, Section 5, Regulation XIV. 1810, respecting the privity or other criminality of the person proposed to be pardoned. (See Regulation X. 1824, as modified by Regulation I. 1829.) No. 152, 7th April 1811, ... I. 47

3. In tendering an offer of pardon the magistrate is not restricted to one individual : 24 hours may be considered as a proper interval to be granted to persons to whom pardon has been offered, before they are called upon to signify their determination to accept it or not. The depositions of the prisoners by whom the offer may be accepted, should be taken in the first instance before the magistrate in the presence of those whom they may affect. No. 405, 5th September 1825, ... I. 169

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5. A magistrate after committing prisoners for trial cannot legally quash the commitment, release one or more of them and make him or them evidence for the prosecution in the same trial. No. 857, 24th January 1834, ... II. 149

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ADMINISTERING POISONOUS OR DELETERIOUS DRUGS.

1. On a conviction of administering poisonous or deleterious drugs to persons with a view of robbing them while in a state of insensibility, the judge of circuit must refer the trial to the Nizamut Adawlut, and the offenders are liable to 39 corahs and imprisonment in transportation for life. No. 365, 7th May 1824, ... I. 152

2. In a case of administering poison with intent to murder, death not ensuing, the commissioner is not competent to exceed a sentence of 7 years' imprisonment,—Section 2, Regulation XII. 1814, being applicable only to cases of *wounding* with intent to kill, and the Nizamut Adawlut having power, under Section 4 of that Regulation, to call for the proceedings and *enhance the sentence. (The Nizamut Adawlut cannot now enhance the sentence; but the session judge, if he consider the sentence which he can pass inadequate, may refer the trial to*

the Nizamut Adawlut. See Sections 4 *and* 6, *Act XXXI.* 1841.) No. 755, W. C. 7th February, C. C. 1st March 1833,..... II. 80

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No. 664, 23d December 1831,..... II. 30

2. A magistrate may try a case of affray under the provisions of Reg. VIII. 1828, although before its enactment some of the prisoners implicated in the same affray had been tried by the court of circuit. The court of circuit, having ordered the magistrate to commit the prisoners, were directed, in the event of their not having tried them, to recall their order, and leave the magistrate to carry his sentence into execution. No. 594, 20th May 1831, ... I. 247

3. It would be illegal to punish a party who benefited by an affray, unless there were proofs that he was guilty of instigating or conniving at the affray. No. 619, 21st Jany., 1831,..... II. 1

4. On the undermentioned dates it was ruled that a magistrate cannot try but must commit a case of affray attended with sword wounding: but this construction has been superseded by para. 4, Cir. Or. Nizamut Adawlut, dated 12th June, 1840. No. 623, 4th Feby. 1831, ... II. 3

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5. A magistrate may not, under Reg. VIII. 1828, sentence a person convicted of affray at once to two years' imprisonment. No. 774, C. C. 29th March, 1833, ... II. 89

6. It is not imperative on a magistrate to commit both parties in an affray. No. 778, C. C. 6th April 1833, ... II. 93

7. The power vested in a magistrate by Sec. 3, Reg. VIII. 1828, of awarding labor to a prisoner convicted of affray during the original term of imprisonment to which he may be sentenced, must be considered to extend equally to the further period he may be required to undergo, in default of paying the fine which the magistrate may think fit to impose on him; subject of course, as regards both periods, to the rule laid down in Sec. 3, Reg. II. 1834. No. 972, W. C. 7th August, C. C. 4th Sept. 1835, ... II. 224

8. The provisions of Reg. VIII. 1828, are applicable only to cases of affray regarding lands and their produce: and cannot be made to apply to other cases of affray, from whatever cause arising. No. 1154, C. and W. C. 1st June 1838, ... III. 16

AGENTS APPOINTED UNDER REGULATION XII. 1833.

1. A person may appoint one or more agents for the conduct of suits or other business; and should be required to state in his power of attorney that he acknowledges any acts jointly and severally performed by them in the discharge of their duty as agents, to be binding on him. No. 1210, C. C. 26th April, W. C. 10th May 1839, ... III. 49

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1. A *moonsiff* may depute an *ameen* to make local enquiries in regular suits pending in his own court: but not in cases in which he has been directed by superior authority to make investigation himself. No. 863, C. C. 14th February 1834, ... II. 155

2. No fee can be levied for the remuneration of ameens appointed by Cir. Or. Sudder Dewanny Adawlut, 13th January, 1837, in cases in which he may be employed to investigate the sufficiency of security tendered to the Court of Sudder Dewanny

Adawlut, or other zillah courts, and the circumtances of persons wishing to sue *in formâ pauperis*. These duties should be entrusted to the nazir or a moonsiff. No. 1078, C. C. 10th March, W. C. 31st March, 1837, ... II. 301

3. Ameens appointed under the Circular Order, S. D. A., 13th January 1837, are ministerial officers of the zillah courts and the judge may dismiss an ameen of his own authority, subject to the usual appeal. No. 1271, W. C. 16th January, C. C. 2d February, 1838, ... III. 71

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APPEALS.

I. To the King in Council.

1. An order of the Sudder Dewanny Adawlut rejecting a special appeal, in a suit which from its amount can be appealed to the King in Council, is open to appeal: and a translation of the whole of the proceedings of the zillah and provincial courts must be transmitted to England to enable His Majesty in Council to form a judgment of the merits of the case. [*Obsolete.*] No. 245, 15th March 1816, ... I. 82

2. An indigo factory pledged to the Court as security for the execution of a decree pending an appeal to the King in Council, can only be sold with the above lien upon it. No. 659, 30th September 1831, ... II. 27

3. Putnee talooks, as such, are admissible as security in cases appealed to His Majesty in Council to the extent of the surplus proceeds thereof, if otherwise unexceptionable. No. 1004, C. and W. C. 25th March 1836, ... II. 249

4. No appeal lies to His Majesty in Council from an order of the Sudder Dewanny Adawlut refusing, on the grounds specified in Clause 3, Section 12, Regulation XXVIII. 1814, to admit an appeal *in formâ pauperis* from the decision of a zillah judge in a suit in which the sum or value awarded amounted to 50,000 rupees. No. 1025, W. C. 8th July, C. C. 4th August 1836, ... II. 265

5. Persons wishing to appeal to His Majesty in Council *in formâ pauperis* must, equally with other appellants, furnish security (*malzamins*) to the extent of 5000 rupees to cover the original costs of appeal, and in a further sum of 5000 rupees to reimburse to the Hon'ble the Court of Directors any expense to which they may be put, in the event of their being called upon under the provisions of Section 22, 3 and 4 William IV. Chap. 41, to conduct the appeal on behalf of the party. [*The total amount of security now required is* 25000 *Rs.*] No. 1032, C. and W. C. 12th August 1836, ... II. 272

6. Decrees of His Majesty in Council should be sent to the court of the district in which the cause of action arose, to be carried into effect in the same manner and under the same rules as other decrees; leaving any party dissatisfied with the judge's proceedings or orders to appeal therefrom in the usual manner. The decree-holder is entitled to his interest and mesne profits without a new suit. No. 1066, 17th February 1837, ... II. 293

7. Orders of the Sudder Dewanny Adawlut in miscellaneous cases are not appealable to His Majesty in Council. No. 1102, C. C. 18th August, W. C. 15th September 1837, ... II. 318

II. Appeals from one's own Decisions.

1. A judge of a provincial court cannot sit on the trial of appeals from judgments passed by himself in the capacity of zillah judge, even in company with other judges. No. 70, 29th November 1810,... I. 16

2. A zillah judge cannot try an appeal, regular or special, from a judgment passed by himself as register. No. 305, 27th August 1819, ... I. 123

3 Mr. Walpole, as zillah judge, passed a decree for land and *wasilaut*, and the decree was confirmed by the provincial court to which Mr. Walpole had been promoted. In execution of the decree a question arose as to the *quantum of wasilaut*, and the order of the zillah judge on this question was appealed to the provincial court. Held that as the order fixing the amount of *wasilaut* was not passed by Mr. Walpole, and the question for decision was one on which he had not recorded an opinion, he was competent to give an opinion on the case. No. 497, 13th March 1829,..... I. 212

4. A zillah judge may decide a lakhiraj suit, on which he has reported in his capacity of collector. No. 779, C. C. 12th April, W. C. 10th May 1833, ... II. 93

III. Regular Appeals by whom Cognizable.

1. After the promulgation of Regulation V. 1831, all appeals from the decisions of the zillah judges, which have not been preferred to the provincial court prior to the date fixed for the operation of the Regulation, lie to the Sudder Dewanny Adawlut at whatever time the original suit was instituted. No. 673, 27th January 1832, ... II. 33

2. After the promulgation of Regulation V. 1831, sudder ameens cannot try appeals. Nor can the principal sudder ameens, unless the appeals have been transferred to those offices by the judge with the

sanction of the Sudder Dewanny Adawlut. No. 676, 24th February 1832, ... II. 34

3. After the promulgation of Regulation V. 1831, the Sudder Dewanny Adawlut cannot interfere in the receipt of petitions of appeals from the decisions of a zillah judge in appeal from the decisions of sudder ameens or moonsiffs; his decisions in such cases being final. The rule applies to cases in which the decision of the judge was passed prior, as well as to those passed subsequently, to the promulgation of the Regulation. [A special appeal now lies to the S. D. A under Act III. of 1843.] No. 688, W. C. 27th April, C. C. 18th May 1832, ... II. 41

4. After the promulgation of Regulation V. 1831, no appeal lies to the provincial court, unless the application for the admission of appeal was preferred prior to the date fixed for the operation of the Regulation. No 748, W. C. 4th January, C. C. 25th January 1833, ... II. 75

5. When it may appear to the Sudder Dewanny Adawlut that a moonsiff or sudder ameen has tried a suit, which from its amount or other cause was not legally within his cognizance, and the zillah or city judge has decided an appeal therefrom on its merits, without adverting to this fact, the Court will admit a summary appeal, and, considering the original decision of the sudder ameen or moonsiff, and the decision of the zillah judge thereon equally null and void, will quash all the proceedings in the case and direct the judge to cause the original suit to be tried *de novo* by the authority competent to do so. [*This construction has been superseded on the ground of the jurisdiction of the court in such cases being barred by the positive rule in Clause* 1, *Section* 28, *Regulation V.* 1831, *that the decisions of the zillah and city judges in appeal from the decisions of sudder ameens and moonsiffs shall be final "any thing in the existing regulations to the contrary notwithstanding," and it has been revoked by the Circular Order, Sudder Dewanny Adawlut, dated 26th September* 1842. *But see No.* 3, *above.*] No. 1003, 18th March 1836, ... II. 249

6. In suits exceeding 5,000 rupees, if the principal sudder ameen decree a sum less than that amount, the appeal lies to the Sudder Dewanny Adawlut No 1282, C. C. 7th August, W. C. 29th August 1840, ... III. 76

7. A suit having been transferred from Bhagulpore to Purnea under Section 2, Act XXVII. 1838, and referred to the sudder ameen for trial, an appeal will lie from the sudder ameen's decision to the Purnea and not to the Bhagulpore zillah court. No. 1336, C. C. 13th May, W. C. 27th May 1842,..... III. 90

8. In a suit to recover a Government 4 per cent. promissory note for sicca rupees 5,000, pledged for rupees 4,600, redeemable for rupees 4,930, held that the suit having been brought to recover a note for rupees 5,000 without mention of any currency, which amount is covered by a stamp of 150 rupees, and no objection to the valuation having been urged in the principal sudder ameen's court, the appeal lies to the zillah judge, and not to the Sudder Dewanny Adawlut. No. 1358, W. C. 5th August, C. C. 2d September 1842,.....III. 96

IV. Limitation of time in Appeals.

1. In calculating the period of appeal, the period between the date on which the stampt paper was given in, and that on which the copy of the decree was delivered or tendered to the party, must be excluded: the same rule applies whether the appeal be regular, special, or summary. Nos. 241 and 413, 17th February 1816, 3d March 1826, ... I. 81, 173

2. A zillah judge is vested with discretionary power to admit an appeal from the decision of a sudder ameen, although the petition may not have been presented within the prescribed period, if the appellant shall shew satisfactory cause for not having presented it before. No. 177, 18th April 1828,...I. 202

3. On the rejection of a petition of review the party is not *entitled* to a deduction of the time his petition was pending in the lower court, in calculating the period allowed for the admission of an appeal. But the appellate court will take the plea into consideration, and admit the appeal or not as may appear just and proper. No. 1127, W. and C. C. 2d February 1838, ...III. 2

4. The period allowed for appealing from the orders of moonsiffs in miscellaneous cases (copies of which orders are to be granted on plain paper) should be calculated from the date of the order appealed from, deducting the interval that may elapse between the date of the copy being applied for and its being ready for delivery. No. 1323, W. C. 9th March, C. C. 8th April 1842.....III. 86

V. Preparation and trial of Appeals.

1. Though strictly speaking security for costs should be filed with the petition of appeal, and no appeal can be admitted until it is given, the court may, provided good and sufficient reason is shown why the security was not filed with it, receive the petition, and allow the petitioner time to furnish security. No. 369, 21st September 1824,..... I. 153

2. After the promulgation of Regulation V. 1831, the zillah judge is to perform all the duties in regard to the submission of appeals to the Sudder Dewanny Adawlut heretofore performed by the provincial courts. No. 681, 9th March, 1832, ... II. 37

3. The translation of Bengalee papers in the record of cases appealed to the Sudder Dewanny Adawlut into Persian, must be made at the cost of Government. It is only necessary to translate the papers which are material to the issue of the case. [*Superseded by the abolition of the use of the Persian language.*] No. 699, 29th June 1832, II. 46

4. The Court determined, with reference to the Circular Order of 18th May 1832, (which instructed the zillah judges not to cause the record of appealed cases to be copied, or the original proceedings to be forwarded to the Sudder Dewanny Adawlut until directed by a precept so to do,) that security need not be demanded until the appellate court have determined to call upon the respondent to file an answer to the petition of appeal. No. 709, 27th July 1832, ... II. 53.

5. In cases appealed to the Sudder Dewanny Adawlut, copies must be kept of all papers sent down: but only material papers must be submitted, such as the original pleadings, depositions and exhibits, with a list of them. *Isminuveesecs, nazir's* returns, and other miscellaneous papers and proceedings, need not be sent until specially called for. The proceedings are not to be copied and sent down till called for by a precept. No. 742, 14th December 1832, ... II. 70

6. When there are several defendants, and the decree is given against all, without any specification of what is due from each, the person who first appeals must file his petition on the full amount of the decree: the appeal would not be admissible, were he to write on it the amount of his alleged share. If it be stated in the decree, or can be gathered from the proceedings, what is the share of each defendant, each may appeal separately on his own share only. In a case where the separate liabilities of several defendants holding under distinct titles were not mentioned in the decree, the zillah judge was directed to amend the decree by inserting the amount due by each defendant, in order that they might not be barred their individual right of appeal. No. 849, 20th December 1833, ... II. 144

7. It is not considered necessary for the zillah judges to require appellants, in cases appealed from the decisions of the native judges, to give security until the respondent has been summoned. No. 863, 14th February 1834, ... II. 155

8. The zillah judge cannot compel appellants from the decisions of principal sudder ameens, sudder ameens, and moonsiffs, to file the *moojibaat*, or reasons for appealing, with the petition of appeal. No. 863, 14th February 1834, ... II. 155

9. When one half of the amount claimed has been decreed to the plaintiff, if he do not appeal or appear as respondent on the appeal of the defendant, the court cannot amend the decree in his favor. But if he do appear, and in his reply to the petition of appeal object to that part of the decree which dismissed part of his claim, it is competent to the court to go into the whole merits of the case, as affecting both parties, and decide it in the same manner as if the plaintiff had preferred a separate appeal. No. 868, C. C. 14th February, W. C. 6th May, 1834, ... II. 157

10. When an appeal has been admitted from a dismissal on default by a moonsiff, the judge cannot confirm the dismissal with reference to the reasons assigned for neglect in the original trial, but must decide the case on its merits, or direct the moonsiff to do so, reversing the dismissal on default. The same rule applies when defendant appeals on the ground of an exparte decision having been given against him, when he was prevented by circumstances from attending court. No. 870, W. C. 21st February, C. C. 27th March 1834, ... II. 159

11. The Court of Sudder Dewanny Adawlut recorded their opinion that the appellate court ought generally to confine themselves to the decision of the objections made to the decree by the parties who appeal: but that where obviously requisite for the ends of justice, the jurisdiction of the appellate court may extend to all the interests affected by the decree. No. 997, C. C. 2d January, W. C. 22d January 1836, ... II. 242

12. According to Clause 2, Section 8, Regulation XXVI. 1814, petitions of appeal to the judge against decisions of the principal sudder ameens, sudder ameens, and moonsiffs, need not be accompanied by a copy of the decree appealed from. No. 1159, C. and W. C. 20th July 1838, ... III. 18

VI. Regular Appeals, summarily decided without summoning the Respondent.

See "Decisions summarily confirmed," *passim.*

VII. Special Appeals.

It is necessary to observe, with reference to the following Constructions, that all decisions in regular appeal passed by the lower courts are now specially appealable to the S. D. A. under Act III. of 1843.

1. Clause 3, Section 19, Regulation XIII. 1810, does not preclude a special appeal to the provincial court from the decision of the zillah or city judge in appeal from the decisions of the native commissioners.—[*Superseded by Section* 28, *Regulation V.* 1831, *by which the judge's decision in appeal from moonsiff's and sudder ameens, is made final.*]—No. 68, 30th August 1810, ... I. 16

2. On the rejection of a special appeal the petitioner cannot demand the restitution of the institution fee paid: but the court rejecting the petition, if they think it should be returned, will submit the case to the Sudder Dewanny Adawlut, who are authorized by Section 3, Regulation III. 1802, to direct the return thereof.—[*Superseded by Clause* 5, *Section* 2, *Regulation XXVI.* 1814, *which authorizes the courts in such case to refund any portion of the fee not exceeding* 3-4*ths.*] No. 109, 20th August 1812, ... I. 29

3. A special appeal only will lie from the decisions passed by judges in appeals from the decisions of the

registers after the 1st February 1815, whether the suits were referred to the registers before, or after that date. So also in suits tried originally by the zillah and city judges and in appeal by the provincial courts, a special appeal only will lie to the Sudder Dewanny Adawlut. No. 245, 15th March 1816, I. 82

4. Should the Sudder Dewanny Adawlut reject a petition of special appeal in a suit which by its amount is appealable to the King in Council, the appellant may appeal to His Majesty in Council, and the proceedings held in the zillah or city court and provincial court, will be translated and transmitted to England. No. 245, 15th March 1816, ... I. 82

5. The decisions passed by the provincial courts, in all special appeals, after the 1st February 1815, are final. No. 245, 15th March 1816, ... I. 82

6. A special appeal cannot be admitted to reverse an error in the determination of facts, when the judgment may appear to be manifestly without, or contrary to, evidence: for under Section 2, Regulation XXVI. 1814, the facts must be assumed as stated in the decree. The Court declined stating whether the fact of exorbitant damages having been given was a ground for admitting a special appeal. No. 246, 1st May 1816, ... I. 83

7. A person having inadvertently omitted in his petition of special appeal to state the grounds on which he appealed, may be allowed to supply the omission by a supplementary petition on the stamp prescribed by Section 17, Regulation I. 1814. No. 248, 8th May 1816,..... I. 85

8. The order of a single judge of a provincial court for admitting a special appeal is final. [*By Section 5, Regulation IX. 1819, it is necessary that two judges of a provincial court or the Sudder Dewanny Adawlut should join in admitting a special appeal: but Clause 4, Section 2, Regulation IX. 1831, restored to a single Judge of the Sudder Dewanny Adawlut the power of admitting a special appeal.*] No. 262, 26th December 1816, ... I. 91

9. The zillah or city judge need not report to the provincial court the admission of a special appeal from the decision of a register. No. 336, 23d February 1821, ... I. 138

10. The provincial court cannot authorize a zillah or city judge to admit a special appeal, when, under the Regulations, such appeal is not admissible. No. 354, 30th May, 1823, ... I. 147

11. The circumstance of a rent-free suit reported upon by a collector having been referred for decision to a sudder ameen, was held to be a good ground for admitting a special appeal; as also was the fact of a case having been decided without reference to an award of arbitration. No. 499, 27th March 1829,..... I. 213

12. Documents filed with petitions of special appeal are not chargeable with the exhibit fee on being filed. [See Construction 961, No. 18 *post.*] No. 537, 8th January 1830,..... I. 228

13. The zillah judge having nonsuited the plaintiff, he appealed to the provincial court, who decided the case on its merits. Held that the appeal thereon to the Sudder Dewanny Adawlut should be special. No 552, 14th May 1830, ... I. 233

14. The provincial court is competent to direct a zillah judge to re-hear a petition of special appeal which he had irregularly dismissed. No. 641, 10th June 1831, ... II. 12

15. The order of a judge rejecting a special appeal from the decision of a register in appeal from that of a sudder ameen is final, and can only be set aside by the judge's obtaining the sanction of the Sudder Dewanny Adawlut to review it. No. 810, C. C. 2nd August, W. C. 20th September 1833,..... II. 115

16. Undecided petitions of special appeal from the decisions of sudder ameens and moonsiffs, received by the Sudder Dewanny Adawlut from the provincial courts on their abolition, must be disposed of by the Sudder Dewanny Adawlut, who will admit or reject the special appeal as may appear advisable in each case under the general Regulations. No. 814, W. C. 23d August 1833, C. C. 27th September 1833,..... II. 118

17. A single judge of the Sudder Dewanny Adawlut may reject a petition for special appeal received from the provincial court, though one judge of the provincial court, while the application was pending before it, had recorded an opinion that it should be admitted. No. 845, W. C. 29th November, C. C. 20th December 1833,..... II. 142

18. In applications for special appeal no exhibit fee is leviable on documents filed with the petition until the appeal is admitted. No. 961, W. C. 26th June, C. C. 7th August 1835, ... II. 218

19. A petition of special appeal must be considered as miscellaneous until the appeal is admitted; consequently it is not necessary in such cases to issue the notice prescribed by the Circular Orders, 5th November, 1812, which refers to suits admitted and pending. A copy of the decree appealed from must accompany the application. No. 1139, C. and W. C. 2d March 1838,..... III. 8

20. A petition of special appeal once struck off by the zillah judge cannot be re-admitted by him without the sanction of the Sudder Dewanny Adawlut. No. 1171, W. C. 10th August, C. C. 7th September 1838,..... II. 27

VIII. Summary and Miscellaneous Appeals.

1. The judge may admit a summary appeal from the decision of a sudder ameen, after the expiration of the prescribed period for appealing, on satisfactory explanation being given for the delay. No. 477, 18th April 1828, ... I. 202

2. In cases in which a summary appeal is admissible, under the provisions cited, such appeal may be admitted, although the appellant may, erroneously

or from other cause, have applied for a special appeal on stampt paper of the prescribed value : and in such case the stamp duty paid by the appellant on his petition shall be returned to him, with the exception of two rupees, the value of a proper stamp for a summary appeal. No. 613, 25th November 1831, I. 254

3. The rejection of a summary appeal does not bar the admission of a regular appeal. No. 723, 19th October 1832, ... II. 59

4. Though the provincial court cannot receive new appeals after the promulgation of Regulation V. 1831, they may receive and act upon petitions appealing from the zillah judge's orders passed in execution of their decrees. No. 753, C. C. 1st February, W. C. 1st March 1833,..... II. 79

5. The summary appeal authorized by Section 3, Regulation XXVI. can be admitted only when a suit has been dismissed or rejected on the ground of delay, informality, or other default, without an investigation of the merits. The words "*or in opposition to the Regulations*" used in Clause 9 of the Section apply to cases which have been so dismissed or rejected on grounds not warranted by the Regulations, or to the omission prior to the dismissal or rejection of the suit of any of the forms prescribed by the Regulations for calling on a party to attend and shew cause why his suit should not be dismissed, &c. No. 805, C. C. 19th July, W. C. 6th September1833,... II. 113

6. The Court of Sudder Dewanny Adawlut are competent to exercise the powers vested in them by Clause 2, Section 2, Regulation IX. 1831, and Section 15, Regulation VII. 1832, without calling for the proceedings, whenever the order or decision appealed against, whether in a regular or summary suit, may appear to them manifestly unjust or illegal, or on any of the grounds defined in the Clause first cited. No. 839, W. C. 11th October, C. C. 8th November 1833, ... II. 132

7. No appeal lies to the Sudder Dewanny Adawlut from the order of a zillah judge dismissing a vakeel of a moonsiff's court. No. 846, C. C. 6th December, W. C. 27th December 1833, ... II. 142

8. The order of a zillah judge refusing to take security from a defendant, who it is alleged is about to abscond, is open to appeal to the Sudder Dewanny Adawlut. No. 963, C. C. 26th June, W. C. 31st July 1835, ... II. 219

9. The Construction 1003, relative to the power of the Sudder Dewanny Adawlut to admit summary appeals from the decisions of the zillah and city judges in cases tried originally by the sudder ameens and moonsiffs, has been rescinded by Circular Order, S. D. A. 26th September 1842. [*But see Section III. above, Nos. 3 and 5.*] No. 1003, 18th March 1836, ... II. 249

10. Though the zillah judge's order in execution of a moonsiff's decree is final, yet in a case in which the moonsiff had omitted to provide in his decree for the payment of interest, and the judge, on the decree-holder's applying to him to supply the omission under the Circular Order of 11th September 1839, rejected his application, it was held that as the order originated with the judge, and was not passed in appeal from the order of a lower court, the Sudder Dewanny Adawlut were competent to receive an appeal therefrom, and either direct the judge to allow interest, or reverse his decision and pass a modified order according to the Circular cited. No. 1055, W. C. 17th October, C. C. 25th November 1836, ... II. 285

11. Orders of the Sudder Dewanny Adawlut in miscellaneous cases are not appealable to the King in Council. No. 1102, C. C. 18th August, W. C. 15th September 1837, ... II. 318

12. Orders passed by a zillah or city judge under Section 114, Regulation X. 1819, for imposing fines for the illicit manufacture, &c. of salt are final in certain cases, and not open to appeal, on the merits, to the Sudder Dewanny Adawlut : but it was held that if the decree passed by the lower court in a case of this nature were manifestly illegal on the face of it, or any gross or glaring irregularity should have occurred in the course of the investigation so as to vitiate the proceedings, it would be competent to the Court of Sudder Dewanny Adawlut, under its general power of superintendence and control, to order the zillah judge to revise his proceedings with a view to the correction of the error observable in them, and to proceed in the case according to law. No. 1113, W. C. 17th November, 1837, C. C. 1st January, 1838,..... II. 327

13. Miscellaneous orders passed in execution of a decree in regard to mesne profits, interest, or other matters in dispute between the parties in a suit, which may be involved in the decision, must be looked upon as a necessary process for carrying into effect the original intentions of the court passing the decree, in respect to a point on which it may in fact be said to have passed a formal judgment ; and cannot therefore be considered as forming a new ground of action. No. 1129, W. and C. C. 9th February 1838,..... III. 4

14. A summary appeal was admitted from the summary order of a judge under the provisions of Clause 1, Section 5, Regulation V. 1830, in case of an application by a ryot to settle his accounts with an indigo factory before the expiration of his contract ; the judge having no summary jurisdiction in such case. No. 1130, C. and W. C. 9th February 1838, ... III. 4

15. It was not competent to a zillah judge to impose a fine for a litigious appeal under Section 3, Regulation XIII. 1796, on an appellant in a miscellaneous case, the rule therein laid down not being applicable to such appeals. No. 1138, C. and W. C. 16th March 1838, ... III. 8

16. Appeals from orders passed by a principal sudder ameen in execution of his own decree in a suit above the value of 5,000 rupees, as well as

appeals from orders passed in such suits under Sections 4 and 5, Regulation II. 1806, lie direct to the Sudder Dewanny Adawlut; but appeals in summary and miscellaneous cases made over to a principal sudder ameen under Section 8, Act XXV. 1837, lie in the first instance to the zillah judge, and specially to the Sudder Dewanny Adawlut, whether the amount be above or below 5,000 Rupees. No. 1148, W. C. 27th April, C. C. 11th May 1838, III. 12

IX. Appeals in Summary Suits for Rent.

See "Rent, summary suits and process for," Nos. 15, 19, 34.

X. Appeals in Summary Suits for Dispossession.

See "Dispossession or disputed possession, summary process of civil courts in cases of."

XI. Appeals in Criminal Cases.

See "Magistrates' orders, appeals from and revision of."

See "Dispossession or disputed possession, summary process of criminal courts in cases of."

APPLICATIONS.

See "Stamps, VI."

APPROVERS.

See "Accomplices," *passim.*

ARBITRATION.

1. The Regulations XVI. 1793, XV. 1795, and XXI. 1803, refer only to suits for money and personal property, and disputed accounts arising out of suits for real property, and the reference of a claim for landed property to arbitration is not warranted. [But see construction 253, No. 4, *post.*] Nos. 1 and 37, 3d May 1798, 10th June 1808,..... I. 1&9

2. Appeals against decisions founded on the award of arbitration should not be dismissed under Section 28, Regulation V. 1793, until they have been formally admitted. No. 48, 18th September 1809, I. 12

3. Applications for the execution of awards of private arbitration, are to be received and enforced under the rules applicable to summary process. No. 225, 31st October 1815,..... I. 74

4. Regulations XVI. 1793, and XXI. 1803, having been extended generally by Regulation VI. 1813, to suits respecting property in land or limited tenures therein, suits of this description may under Section, 2 Regulation VI. 1813, be referred to arbitration, whatever be the amount. No. 253, 7th August 1816, ... I. 87

5. *Canoongoes* cannot be compelled to attend *punchayuts*, or act as arbitrators. When the nomination of an arbitrator may rest with the civil courts, they should avoid as far as practicable the appointment of *canoongoes*; and when such selection may be unavoidable, they should immediately notify the appointment to the collector that he may provide for the due discharge of the duties of the office. No. 286, 4th February 1818, ... I. 108

6. When a suit is submitted to arbitration, the court, previously to the arbitrator or arbitrators entering upon the arbitration, should require the parties to agree to one of the provisions detailed in Section 5, Regulation XVI. 1793, for completing the award in the event of the arbitrators not delivering it by the limited time. When the preliminaries had been omitted, and the arbitrators were not unanimous, it was held that their proceedings must be considered void and of no effect, and that the case must be tried *de novo*. No. 395, 24th June 1825, ... I. 165

7. Regulation VI. 1813, as appears from its preamble, relates exclusively to contests and suits respecting land, and is inapplicable to other matters, such as debts, disputed accounts, partnership, and the like. No. 472, 22d February 1828, ... I. 201

8. A magistrate acting under Regulation XV. 1824, cannot refer disputes to arbitration. [Superseded by Section 9, Act IV. 1840.] No. 571, 6th August 1830, ... I. 239

9. On the application of one of the parties to the civil court, to cause execution of an arbitration award, the judge is not authorized to refer the case from the civil to the criminal court. It was his duty as civil judge to determine whether the award should be executed or not, without reference to a certain order of the Nizamut Adawlut annulling certain orders of the magistrate relating to the case; the said order not being held to affect orders passed by the judge in the civil court. No. 609, 18th November, 1831,... I. 252

10. The decisions of punchayuts appointed under Regulation IX. 1833, should be enforced by the revenue authorities, the judicial functionaries having no power to carry them into effect. No. 895, W. C. 5th September, C. C. 26th September 1834,... II. 179

11. Under Section 3, Regulation XVI. 1793, a judge cannot refer to a single arbitrator a suit for money or personal property, the amount or value of which may exceed 200 rupees. This restriction applies to summary as well as to regular suits, but does not apply to suits referred to private arbitration by individuals under Section 3, Regulation VI. 1813. No. 936, W. C. 6th March, C. C. 27th March 1835, ... II. 203

12. The mere circumstance of arbitration bonds not having been executed cannot, of itself, bar the summary jurisdiction of the court, in cases referred to private arbitration under Sections 2 and 3, Regulation VI. 1813: but if the reference to arbitration be not denied, the court should proceed summarily to enforce

the award, subject of course to all the rules and limitations laid down in the enactment in question. When, however, the agreement to abide by the award be disputed, the Sudder Dewanny Adawlut consider that it would be dangerous to allow this point to be determined summarily, and are of opinion that, in such cases, the parties should be referred to a regular suit. No. 1153, C. and W. C. 11th May 1838, ... III. 16

13. Principal sudder ameens are competent, under Section 2, Regulation XVI. 1793, with the consent of the parties, to refer suits to arbitration. No. 1292, C. C. 26th March, W. C. 10th April 1841,..... III. 78

14. Sudder ameens and moonsiffs are competent under the provisions of Section 2, Regulation XVI. 1793, with the consent of the parties, to refer suits to arbitration. No. 1320, C. C. 11th February, W. C. 4th March 1842,..... III. 85

ARREST.

1. In the event of a legal arrest under the warrant of a civil court, and a forcible rescue from the custody of its officers, the magistrate is not empowered, on proof of such rescue, to order the police officers forcibly to enter the house where the person may be, and apprehend and forward him to the civil court. In such case the civil court should proceed against the party agreeably to Section 25, Regulation IV. 1793. No. 765, C. C. 8th May, W. C. 12th April 1833, ... II. 86

2. The court considered the magistrate of Burdwan to have acted unwarrantably in arresting a police darogha of Beerbhoom, while in the execution of his duty in serving a warrant issued to him by the magistrate of Beerbhoom. No. 851, 26th December 1833, ... II. 145

3. A person being in attendance on a criminal court on bail to answer a criminal charge, is not liable to arrest under civil process. No. 885, C. C. 23d May, 1834. ..... II. 171

4. Nor is a person who is in attendance on a collector to defend a suit or claim pending before that officer; and in this case, as well as in that of a person in attendance on a criminal court, the protection will last only as long as the party is in actual attendance, or coming to, or returning from the court. No. 893, C. C. 1st August 1834, W. C. 4th July 1834; No. 1089, C. and W. C. 28th April 1837, ... II. 178&308

5. The court which issued the process of arrest is alone competent to release the prisoner. No. 1000, W. C. 5th February, C. C. 11th March 1836, II. 45

6. A defendant, not being within the limits of the district in which the suit against him was instituted, cannot be arrested in default of security under the rules of Section 4, Regulation II. 1806, No. 888, C. C. 4th July, W. C. 25th July 1834, ... II. 175

7. The civil court is not competent to require from a magistrate delivery on civil process of the person of a prisoner, after the expiration of his imprisonment in the criminal jail. No. 1276, C. C. 20th March, W. C. 24th April 1840,..... III. 73

ASSEMBLING ARMED MEN.

See "Affrays," No. 1.

ASSESSORS.

1. A difference of opinion from assessors or jurors is not a legal ground for referring a trial to the Nizamut Adawlut. No. 783, W. C. 25th March, C. C. 12th April 1833, ... II. 96

2. A trial, commenced with the aid of the law officer, cannot be concluded with the aid of a punchayut. No. 835, C. C. 4th October, W. C. 15th November 1833, ... II. 131

3. East Indians are equally qualified with other persons amenable to the courts, to sit as jurors or assessors on the trial of natives of India. No. 1019, W. C. 1st July, C. C. 29th July 1836, ... II. 262

See "Postponed trials," No. 4.

ASSETS.

See "Execution of Decrees, V."

ASSISTANCE, WRIT OF.

1. The civil courts are not to interfere with the execution of decrees of the Supreme Court, unless a writ directing execution be issued by that court. No. 267, 23d July 1830, ... I. 237

2. Claims which may be preferred in the course of executing a decree of the Supreme Court, by individuals not parties to the suit before that court, may be received and conducted in a summary form, as authorized by the general regulations in force in executing decrees of the established *mofussil* courts. No. 636, 20th May 1831, ... II. 9

3. In execution of a decree of the Supreme Court in favor of A, founded on a deed of mortgage executed by B, the magistrate was considered to have acted judiciously in refusing to use forcible means to oust a third party from property in their possession, which they held under a decree of the provincial court founded on a deed of agreement executed by B; and was told he should confine his aid and assistance to the sheriff's bailiff to preventing any breach of the peace, leaving the mortgagee to sue the third party in the zillah court for the property claimed by him under the decree of the Supreme Court. No. 800, 21st June 1833, ... II. 108

ASSISTANT TO THE COLLECTOR.

1. A collector is authorized by Clause 3, Section 8, Regulation IV. 1821, to delegate only his

fiscal duties to his assistant, but not those delegated to himself by the judge either under Regulation XIV. 1824, Regulation II. 1819, or any other Regulation; nor the duties of magistrate vested in a collector, the delegation of which latter to an assistant would, in some instances, be contrary to the provisions of Regulation IX. 1807, Regulation III. 1821, and Regulation I. of 1822. No. 603, 21st October 1831, I. 250

ASSISTANT TO THE JUDGE.

1. Assistants to judges cannot be employed in investigating and deciding miscellaneous cases relating to execution of decrees. No. 735, W. C. 9th November, C. C. 7th December 1832,..... II. 65

ASSISTANT TO THE MAGISTRATE.

1. The assistant to a magistrate is not competent to pass an order for commitment in cases wherein the offence may appear to require a more severe punishment than he is competent to adjudge; but he must submit his proceedings to the magistrate. No. 191, 18th January 1825, ... I. 59

2. An assistant vested with special powers described in Section 2, Regulation III. 1821, is competent to order *moochulkas* and security to be taken under the provisions of Regulation IV. 1825. No. 529, 20th November 1829,..... I. 224

3. An assistant vested with those powers cannot require security for good conduct from a prisoner sent in by a darogha under Section 20, Regulation XX. 1817, or commence an enquiry into the character of a prisoner made over to him for trial on a specific charge. Should he deem it necessary to require security from a prisoner not convicted of the crime charged, he should report to the magistrate to that effect. No. 548, 23d April 1830,..... I. 231

4. An assistant is not competent to take cognizance of complaints against European British subjects to the extent specified in 53d Geo. III. Cap. 105. The powers in question can only be exercised by a person possessing the full powers of magistrate. No. 595, 17th June 1831,..... I. 248

5. In cases referred to an assistant for trial and decision, he may acquit or convict according to his judgment. But in cases referred merely for report, he has no power to release the prisoners, but should submit his opinion in the required report to the magistrate, who will pass the proper order. No. 612, 25th November 1831,..... ..... I. 253

6. A magistrate is authorized, under the general powers vested in him by the Regulations as a superintending authority over his assistant, to revise the proceedings of the latter without an appeal, in the same manner as the provincial courts of circuit were, by the construction of 10th November 1826, No. 427, declared competent to revise those of the magistrate. [But see Sections 2 and 5, Act XXXI. of 1841.] No. 722, 12th October 1832, ... II. 59

7. An assistant vested with special powers is competent to try suits under Regulation XV. 1824 (rescinded); and the magistrate is competent, under the general power vested in him, to confirm, alter, or reverse the order passed by the assistant in such suits. No. 769, C. C. 15th March, W. C. 4th April 1833. ... . II. 87

8. Under the provisions of Section 2, Regulation XIII. 1797, an assistant to a magistrate, on removal from one district to another, whether under the orders of Government or the commissioner of the division, should take the prescribed oath of office before the magistrate of the zillah to which he may have been newly appointed: and the magistrate is, in such cases, competent, and indeed required by the provisions of the abovementioned enactment, to administer it to him without any special orders from Government on the subject. No 850, W. C. 20th December 1833, C. C. 4th January 1834, ... II. 145

9. The deputation allowance of assistants to the magistrates authorized by Section 3, Regulation XI. 1824, if not paid by the parties, should be realized by the same process as the costs of suit in civil cases; and a commissioner of circuit is competent to exercise the same power as the magistrate in ordering the deputation of an assistant duly qualified, [that is, vested with special powers,] and to adjudge the payment of his deputation charges. No. 678, 24th February 1832, II. 34

10. Assistants vested with special powers cannot award a longer term of imprisonment in lieu of stripes than one month. They are however at liberty, as in other cases in which they deem the prisoner deserving of a degree of punishment beyond their competency to award, to return the case to the magistrate for the issue of final orders, stating their own opinion thereon. No. 883, W. C. 18th April, C. C. 2d May 1834, ... II. 170

11. An assistant vested with special powers is competent to dispose of cases under Act IV. 1840. No. 1344, W. C. 20th June, C. C. 8th July 1842, ... III. 92

ATTACHMENT.

1. In cases requiring the appointment of a manager of a joint and undivided estate attached under Section 26, Regulation V. 1812, endeavor should be made in the first instance to prevail on one of the family or friends of the sharers to undertake the duty gratuitously: but in the event of its being necessary to make a pecuniary remuneration to the manager, the amount must be fixed, on consideration of the circumstances of the case, by the judge making such appointment. The manager so appointed must account to the several proprietors for their respective profits arising from the estate, after discharging the public revenue and deducting the compensation he may be authorized to receive. No. 115, 3d December 1812,..... I. 33

2. In cases of disputes referred from the criminal to the civil courts under Regulation VI. 1813, a reasonable time should be allowed to the parties to attend and bring forward their proofs, as required by the perwannehs addressed to them under Clause 1, Section 5, Regulation VI. 1813. Should they fail to attend within that period, so as to admit of the requisite investigation being made, and the attachment of the land in dispute appear necessary to prevent a breach of the peace, the measure may be adopted in the manner prescribed in that clause. [*Rescinded: see Regulation XV.* 1824, *and Act IV. of* 1840.] No. 140, 23d December 1813, ... I. 42

3. The public sale of lands for arrears of public revenue in all cases wherein the Governor General in Council, or Board of Revenue, or Board of Commissioners, in cases left to the discretion of those boards, may judge it proper to direct such sales, is not restricted or in any respect affected by the appointment of a manager under Section 26, Regulation V. 1812. No. 142, 3d February 1814, ... I. 44

4. The manager so appointed must be considered in the light of an agent acting for the benefit of his principals, and bound to a faithful discharge of the duty committed to him. The "proper security" directed to be taken from such manager is not restricted to personal bail for appearance, but extends to security for a faithful account of the manager's receipts, and should be proportioned "to the extent thereof" as declared in Section 6, Regulation V. of 1799, and Clause 6, Section 16, Regulation III. 1803, with respect to administrators appointed by the civil courts in the cases therein provided. No. 142, 3d February 1814, ... I. 44

5. The revenue authorities possess the same power of interference in the case of a manager appointed by a civil court under Regulation V. 1812, Section 26, as they have over a manager appointed by the proprietor of the estate. [*By Regulation V.* 1827, *all attached estates are to be placed under the collector's management.*] No. 142, 3d February 1814, ... I. 44

6. A judge should not attach a defendant's lands till he has satisfied himself by proof, that sufficient grounds, as set forth in Clause 1, Section 5, Regulation II. 1806, for requiring *malzamineé* from the defendant, actually exist; and until the defendant has failed to furnish security, within a reasonable time to be allowed for the purpose. No. 190, 14th December 1814, ... I. 59

7. The construction No. 213, which declares the collector to have no power to appoint a manager of an estate, attached under Section 26, Regulation V. 1812, has been superseded by Regulation V. 1827; which vests the collector with power to nominate. No. 213, 30th June 1815, ... I. 68

8. A magistrate cannot order the collector to attach an estate: if necessary, he must do it himself. [*Superseded by Section* 3, *Act IV.* 1840.] No. 414, 17th March 1826, ... I. 174

9. When in the case of property attached to enforce the attendance of a party charged with evading the magistrate's process, the party accused shall appear to answer the charge within the 6 months mentioned in Clause 5, Section 4, Regulation III. 1804, the magistrate is not authorized to continue the attachment. No. 414, 17th March 1826, ... I. 174

10. An European British subject is not eligible to the office of manager of an estate attached under Sections 26 and 27, Regulation V. 1812. No. 449, 30th March 1827, ... I. 189

11. A *zumeendar* is not at liberty to send a *suzawul* of his own authority to attach and collect the rents of the actual cultivators immediately from themselves, without having previously instituted a summary suit under Section 15, Regulation VII. 1799, against the *talookdar* or other intermediate holder between himself and the actual cultivators. No. 456, 17th August 1827, ... I. 192

12. A commissioner of circuit has no authority to attach an estate or to direct the collector to do so. No. 525, 4th September 1829, ... I. 223

13. The above construction does not apply to a magistrate; and the commissioner cannot direct a magistrate to issue orders to a collector to attach lands in conformity with Regulation V. 1827. [Nos. 12 and 13 may be considered as obsolete: the appellate jurisdiction of commissioners of circuit is, for the most part, vested in the session judges; and vide Act IV. 1840.] No. 544, 16th April 1830, ... I. 230

14. The property of a European defendant is liable to attachment in the same manner as that of any other person subject to the jurisdiction of the court, on the court's being satisfied by sufficient proof that the defendant intends to abscond, or withdraw himself, or remove his property, the detention of which is necessary to the satisfaction of eventual judgment; the mere oath of the plaintiff being insufficient. No. 588, 8th April, 1831, ... I. 246

15. Until the proclamation of attachment has been issued in conformity with the above rule, a defendant may legally alienate his property. No. 588, 8th April 1831, ... I. 246

16. Under the powers vested in them by Regulation VIII. 1831, collectors are competent to try all cases of resistance of their process of attachment connected with summary suits, except where actual breaches of the peace occur, in which event the case must be tried by the magistrate. No. 615, 23rd December 1831, ... I. 254

17. The provisions of Section 5, Regulation II. 1806, do not restrict the power of attachment to property in the district. The judge may cause the defendant's property to be attached on his inability to give security, wherever the same may be situated. No. 665, 6th January 1832, ... II. 30

18. It is not competent to a judge to attach a portion of a joint undivided estate: he must attach the whole or none. No. 717, 21st September 1832, ... II. 56

19. If a defendant abscond or shut himself up in his house, to avoid service of the process taken out against him under Section 4, Regulation II. 1806, his property may be attached to secure execution of the ultimate judgment against him. No. 745, 21st December 1832, ... II. 71

20. Section 23, Regulation XXIII. 1814, not being rescinded, moonsiffs must still apply to the judge before requiring security from defendants, or proceeding to attach their property in default of security in cases still pending. [*Superseded by Section 6, Act VI. 1843.*] No. 772, W. C. 29th March, C. C. 26th April 1833, ... II. 89

21. The same process for holding lands in attachment must be pursued in cases under Section 5, Regulation II. 1806, as when the attachment is made in execution of a decree, i. e. by keeping a chuprassee on the land. No. 916, C. C. 21st November, W. C. 19th December 1834, ... II. 192

22. No person can be compelled against his will to take charge of property distrained, or attached in execution of a decree. If, however, any one should take charge of the property voluntarily, he of course becomes responsible for the faithful discharge of his engagement, and liable to prosecution before the civil court by a regular suit for damages which may have arisen from his failing to do so. No summary proceedings, however, can be instituted against him. Generally the person at whose instance the property is distrained or attached must be considered answerable for the safe custody of it, during the period of distraint or attachment. No. 958, W. C. 19th June, C. C. 17th July 1835, ... II. 216

23. The terms used in the preamble of Regulation V. 1827, being general, include rent-free lands as well as lands paying revenue to Government. Whenever, therefore, it is necessary to attach such lands, it must be done by a precept to the collector. No. 1039, C. C. 19th August, W. C. 16th September 1836,..... II. 276

24. When lands are attached by Government pending an enquiry as to the validity of the alleged rent-free tenure, if the lands be finally adjudged liable to assessment, Government are entitled to the mesne profits during attachment. If on the other hand, the lands be declared to be exempt from public assessment, the proprietors have a just claim against Government for the mesne profits which accrued while the lands were under charge of the revenue authorities. No. 1079, C. C. 10th March 1837,... II. 301

25. The provisions of Section 26, Regulation V. 1812, are not applicable to dependant talooks. No. 1283, C. C. 7th August, W. C. 4th September 1840, ... III. 76

26. A magistrate cannot attach property pending a suit under Act IV. 1840, nor call on collector to do so under Regulation V. 1827, till he has decided the case. No. 1347, C. C. 24th June, W. C. 2d August 1842, ... III. 92

ATTORNEY.

1. A general power of attorney presented to a civil judge to be attested, should not be retained as a record, but returned to the party presenting it. No. 917, W. C. 28th November 1834, C. C. 2d January, 1835, ... II. 192

2. A zillah judge is not required to authenticate an English power of attorney. No. 960, C. C. 19th June 1835, ... II. 218

AUCTION PURCHASER.

1. Should the information furnished to the judge with the collector's requisition to give possession to an auction purchaser, be insufficient to enable him to comply with the requisition, the judge should record the points on which it is defective and his inability to proceed without full and specific information, and send a copy of his proceedings to the collector. [Superseded by Act XII. of 1841.] No. 996, C. C. 2d January, W. C. 29th January 1836,.....II. 241

BA FURZUNDAN.

1. The term "*Ba furzundan*" is considered as conveying an hereditary title to the grantee and his descendants, in the same manner as if the words "*nusulun bad nusulun*" had been used. No. 1103, C. C. 27th October, W. C. 22d September 1837, II. 319

BAIL.

1. The court of circuit should generally direct the magistrate to take bail from persons accused of criminal offences while under trial; though cases may occur which would warrant the court in accepting bail itself. No. 111, 22d October 1812, ... II. 30

2. The surety of a person held to bail, for trial before the court of circuit, failing to produce him, the bail becomes forfeited: but the magistrate should not enforce the penalty until he had procured the permission of the judge holding the sessions. No. 290, 2d April, 1818,..... I. 113

3. When persons committed for trial are admitted to bail, the bail bond is in full force until the trial is concluded, which is not until final sentence is passed: and no person on bail should be committed to jail until a final sentence involving imprisonment may have been passed upon him. No. 605, 11th November 1831, I. 251

4. The commissioner calling for explanation in a criminal case decided by a magistrate, is competent to

direct the prisoner sentenced to be admitted to bail, until a final order shall have been passed by the commissioner. No. 657, 2d September 1831, ... II. 26

5. A magistrate may demand bail from persons charging police officers with extortion, &c. No. 731, W. C. 2d November, C. C. 30th November 1832, II. 63

6. The rules contained in the Circular Order, Nizamut Adawlut, of the 27th April and 30th August 1810, and Construction 734, (see Security for good conduct, No. 15), are equally applicable to the enforcement of bail bonds for personal appearance. No. 1233, W. C. 19th July, C. C. 16th August 1839, ... III. 59

7. Receiving stolen goods is a bailable offence, provided the accused be not also charged with the original theft. No. 1237, W. C. 19th July, C. C. 16th August 1839, ... III. 60

8. Embezzlement is a bailable offence. No. 1238, W. C. 19th July, C. C. 16th August 1839, ... III. 60

BANKRUPTCY.

1. The regulations containing no specific provisions on the subject of bankruptcy, the civil courts, when cases occur, must exercise the discretion vested in them by Section 21, Regulation III. 1793, and Section 17, Regulation II. 1803. No. 716, 21st September 1832, ... II. 56

BATTA.

See " Coinage," Nos. 5, 8.

BEGARS.

1. The provisions of Regulation III. 1820, are restricted to prohibiting compulsory exaction of service of individuals as *porters* or *coolies* in aid of travellers or marching troops. The prohibition extends, first to such service being compelled by travellers or marching troops; and secondly to its being compelled for them by the civil authorities. With the last exception, the rules of Regulation XI. 1806, stand as they were. No. 314, 5th May 1830, ... I. 129

BEGUM SUMROO'S TERRITORIES.

1. The stamp and usury laws are inapplicable to deeds executed within the territories of the *Begum Sumroo*, prior to the date on which they were annexed to the British dominions. In deciding on claims, therefore, in which more than 12 per cent. interest is demanded, the judge will be guided by the laws and usages of the country. Decisions passed by the Begum's officers prior to her demise must be executed by the judge. No. 1064, W. C. 6th January, C.C. 27th January 1837, ... II. 291

BENAMEE PURCHASE.

1. A zillah judge is not competent to attach an estate, the purchase of which, at a sale for public revenue, was made in a fictitious name; he should communicate any information and evidence obtained by him, relative to the illegal purchase, to the collector to enable the latter to make the enquiry and report prescribed by Section 10, Regulation I. 1801. No. 291, 6th May 1818, ... I. 114

BILLS OF EXCHANGE.

See " Stamps II." Nos. 1, 7, 20.

BENARES, RAJAH OF.

1. The native commissioners appointed to try revenue causes in the family *zumeendaree* of the rajah of Benares, may take cognizance of suits for the rent, revenue, or produce of *lakheraj* lands. No. 1224, W. C. 14th June, C. C. 12th July 1839, ... III. 56

BONDS.

1. The fact of two distinct and separate debts due by different individuals being engrossed on a stamp sufficient in value to cover the whole amount, would not vitiate the deed. No. 1087, W. C. 23d March, C. C. 21st April 1837, ... II. 307

See " Stamps II.," No. 8, 19.

BOUNDARY DISPUTES.

See " Dispossession or disputed possession, summary process of criminal courts in cases of," No. 12.

See " Rent-free Lands," No. 24.

BRIBERY.

1. Giving bribes to a public officer is punishable as a misdemeanor. No. 522, 4th September 1829, ... I. 222

2. The provisions of Section 11, Regulation XIII. 1793, being exclusively applicable to the case of a private servant employing his influence with his master in the decision of a suit pending before the court, does not apply to that of a magistrate's private servant receiving money to procure the petitioner an official situation. The magistrate in such cases will use his discretion in disposing of the charge. No. 539, 26th February 1830, ... I. 228

3. The delivery of a bribe being a criminal act, rendering the deliverer liable to prosecution, he cannot be compelled to give evidence on oath touching the bribe alleged to have been administered by himself. No. 757, W. C 8th February, C. C. 8th March 1833, ... II. 82

4. A magistrate cannot receive a charge of bribery against a *moonsiff* without the permission of the judge. No. 781, C. C. 12th April, W. C. 17th May 1833, ... II. 96

5. A suit to recover from a collector's *serishtedar* a sum of money alleged to have been given as a bribe, must be proceeded on as a common action for debt.

No. 807, C. C. 2d August, W. C. 6th September 1833, ... II. 113

6. Bribery and corruption on the part of ministerial officers in the revenue department is punishable as a misdemeanor. No. 1002, W. C. 4th March, C. C. 25th March 1836, ... II. 248

BUNKUR.

See "Dispossession or disputed possession, summary process in the criminal courts in cases of," No. 21.

BURGLARY.

1. The courts of circuit were warned by this construction to observe the distinction between burglary in a dwelling house and in a warehouse, but this distinction was abolished by Regulation XII. 1818. No. 144, 24th February 1814, ... I. 45

2. The rules contained in Regulation I. 1811, and Regulation XI. 1814, for the punishment of burglary, are to be considered in full force and applicable to all cases of conviction that may come within Clause 5, Section 8, Regulation XVII. 1817. No. 287, 4th February 1818, ... I. 109

3. In cases of simple burglary committed before the promulgation of Regulation XII. 1818, the courts of circuit were directed to complete the trials, giving the prisoners the benefit of the mitigated penalty. No. 298, 26th December 1818, ... I. 119

4. In cases of breaking into houses, &c. punishable by the magistrate, it is immaterial whether it was done by day or night: but the magistrate may consider this circumstance in apportioning the sentence in each case. No. 299, 26th December 1818,... I. 120

5. Clauses 1, 2 and 3, Section 3, Regulation I. 1811, and Clauses 2, 3, 4 and 5, Section 2, Regulation XI. 1814, are considered as virtually superseded by the provisions of Regulation XII. 1818. No. 299, 26th December 1818,..... I. 120

6. If a magistrate commit to the court of circuit a case of burglary, which he is himself competent to dispose of, the judge of circuit should try and decide the case, reporting the magistrate's conduct to the Nizamut Adawlut. No. 301, 29th January 1819, I. 121

7. Any person charged with having committed the offence of burglary while employed in the office of watchman, guard or police officer, against whom there appears sufficient proof, must be committed to the court; the fact of the prisoner's being the *chowkeydar* of a different village being immaterial as regards the commitment, though it would be considered in passing sentence. No. 374, 21st January 1825, ... I. 155

8. Cases of unaggravated burglary or theft cannot be taken up by the police unless the injured party require it by a *written* petition. No. 708, W. C. 27th July, C. C. 24th August 1832, ... II. 51

9. The magistrate must commit for burglary a prisoner formerly convicted of cattle-stealing. No. 1273, C. C. 28th February, W. C. 27th March 1840, ... III. 71

10. Though a police officer cannot make enquiry into unaggravated cases of burglary and theft without a written application from the injured party, yet the magistrate may direct the police officer to make the enquiry whenever he considers it advisable to do so. No. 1354, W. C. 5th August, C. C. 26th August 1842, ... III. 95

BURKUNDAUZ.

See "Neglect of Duty," Nos. 4, 5, 8, 9, 10.

CALCUTTA.

1. Under Regulation I. 1814, a deed of gift drawn on unstampt paper by an attorney in Calcutta for the conveyance of property at Moorshedabad, the donor being at the time a resident of Calcutta, and the donee a resident of Moorshedabad, is not admissible as evidence in the Company's courts. No. 312, 1st April 1820, ... I. 128

2. A suit against A, B, and C, the two former being residents of the district, and the latter a resident of Calcutta, will lie in the zillah court. No. 721, C. C. 5th October, W. C. 9th November 1832, II. 58

3. Decrees of the Calcutta court of requests are to be executed by the judge of the 24-Pergunnahs, in the same manner as other decrees of court, the circumstance of both parties being Europeans making no difference. No. 932, C. C. 6th February 1835, ... II. 201

4. The judge of 24-Pergunnahs may take cognizance of a suit for land, situate beyond the limits of Calcutta, against a resident of Calcutta. No. 991, C. C. 11th December 1835, W. C. 8th January 1836, ... II. 238

CANOONGO.

See "Arbitration," No. 5.

CARRIAGE, SUPPLY OF, FOR TROOPS AND TRAVELLERS.

1. The provisions of Regulation III. 1820, appear to be restricted to prohibiting the compulsory exaction of service of individuals as *porters* or *coolies* in aid of travellers or marching troops: and extends, first, to such service being compelled by the travellers or troops themselves, and secondly, to its being compelled for them by the civil authorities. With this exception the rules of Regulation XI. 1806, stand as they were. No. 314, 5th May 1820, ... I. 129

2. The latter part of Clause 1, Section 3, Regulation XI. 1806, has not been superseded by Regu-

lation VI. 1825, which merely confers additional powers on the revenue authorities, leaving the provisions of the former enactment, in regard to the assistance which police officers are required to render when applied to in such cases, exactly as they were. No. 1049, W. C. 30th September, C. C. 11th November 1836,..... II. 282

3. For troops on the line of march every description of carriage, whether kept for private use or for hire, are liable to be seized; though carriage kept expressly for hire should invariably be taken in the first instance, while that retained for private use should only be pressed in cases of emergency. No. 1049, W. C. 30th September, C. C. 11th November 1836, ... II. 282

4. The carriage to be supplied to officers, not proceeding with or commanding a corps or detachment of troops, or any other person travelling within any part of the Company's territories, either on the public service or his own private affairs, is to be that occasionally let for hire, and not that kept for private use, or exclusively appropriated to the purposes of agriculture. No. 1049, W. C. 30th September, 11th November 1836,..... II. 282

5. The officers of Government cannot seize carriage for the transport of rum, or other supplies required for military purposes, unless the supplies are proceeding with a body of troops, and are required for their use on the line of march; nor can they impress men for the department of public works. No. 1049, W. C. 30th September, C. C. 11th November 1836, ... II. 282

6. Sections 2, 3, and 8, Regulation XI. 1806, apply to troops and travellers commencing their march, as well as to those actually *en route*. No 1188, W. C. 7th December, C. C. 28th December 1838, ... III. 35

7. The police must be left to their discretion as to the mode of compelling bearers, &c. to go with troops and travellers, keeping within the law and leaving parties who consider themselves aggrieved to seek redress in the usual manner, and reporting for the magistrate's orders any instance of refusal of individuals to supply travellers with provisions and other articles at a reasonable rate, or to receive a fair rate of hire for their own services, or those of their carts or bullocks. No. 1188, W. C. 7th December 1838 C. C. 28th December 1838, ... III. 35

CATTLE.

1. The term "cattle" in Regulation XII. 1818, is held to include not only bullocks and buffaloes, but cows, sheep, goats and donkeys. No. 994, W. C. 24th December 1835, C. C. 22d January 1836, II. 240

2. Police officers are not authorized to levy fines on account of cattle trespassing. No. 1176, W. C. 31st August, C. C. 21st September 1838,..... II. 30

CHARGE OF THE OFFICE OF JUDGE, OFFICER IN.

1. The officer in charge of the judge's office may exercise his discretion in postponing a sale, but cannot hold an investigation into the truth of any petition. He may receive a petition of summary appeal, but must leave it for the orders of the judge. He cannot pay any money in deposit, unless under an order passed by the judge before relinquishing charge, or payment be expressly ordered by the Sudder Dewanny Adawlut or other court in execution of whose decree it may have been deposited. No. 998, C. C. 8th January W. C. 15th February 1836, ... II. 243

2. He may stay execution of decrees appealed from, taking security, if necessary, from the party against whom the decree is given. No. 1038, C. C. 19th August, W. C. 16th September 1836, ... II. 276

3. He may summon parties charged with resistance of civil process, and examine witnesses for and against the prosecution, and, if he considers the charge proved, hold the offenders to bail until the arrival of the judge, who, under the provisions of Section 3, Regulation IX. 1799, must pass the final order. No. 1080, C. C, 16th March, W. C. 31st March 1837,..... II. 302

4. He may grant leave of absence to the *vakeels* of the court and the *omlah* of the judge's establishment. No. 1242, W. C. 16th August, C. C. 20th September 1839,..... II. 61

CHILDREN.

See "Illegitimate Children," *passim*.
"Maintenance of Wives and Children," *passim*.

CHINSURAH.

Constructions Nos. 168, 177 and 441, regarding Chinsurah, are now obsolete; that town being included in the zillah of Hooghly. No. 168, 13th July 1814, I. 52
No. 177, 3d Aug. 1814, I. 55
No. 441, 29th Dec. 1826, I. 185

CHOONGEE.

1. *Zumeendars* cannot be prohibited by the magistrate from levying *choongee* in markets held within the precincts of their estates. No. 973, W. C. 7th August, C. C. 25th September 1835, ... II. 224

CHOWDREES.

1. Magistrates are competent to remove *chowdrees* of trades and professions. No. 816, W. C. 23d August, C. C. 27th September 1833, ... II. 119

CHOWKEYDAREE TAX.

1. The duties of *chowkeydaree bukshee* are fully described in the *sunnud* granted to him by Section 16,

Regulation XII. 1813, and he must be restrained from acts not expressly authorized by the Regulations. No. 215, 6th July 1815, ... I. 69

2. Under Regulation XXII. 1816, no individual can be assessed in the same town or city at a higher sum for chowkeydaree assessment than one rupee per month [*Raised to 2 rupees by Section 2, Act XV.* 1837.] No. 304, 6th August 1819, ... I. 123

3. European British subjects are not subject to *chowkeydaree* assessment [*Superseded by Section 3, Act XV.* 1837, *which declares all persons liable.*] No. 411, 23d December 1825, ... II. 172

4. The Circular Order of 22d July 1831, was merely intended to prevent the extension of the provisions of Regulation XXII. 1816, to places not contemplated in that Regulation, and not to interfere with the establishments of *chowkeydars* which the *zumeendars* are bound to support by Section 21, Regulation XX. 1817. No 608, 18th November 1831, ... I. 252

5. The assessment of villagers for the support of a village police establishment of *chowkeydars* is sanctioned by no Regulation, and is consequently illegal. No. 655, 26th August 1831, ... II. 17

CIVIL JAILS AND PRISONERS.

1. The subsistence money of prisoners confined under civil process is payable by the party at whose instance they are confined No 21, 25th June 1806, I. 6

2. The judge is competent to settle the amount of subsistence money of defaulters confined at the suit of the collector No. 77, 31st January 1811,... I. 18

3. If a civil prisoner, sentenced to a reduction of his allowance for two months for breach of the prison rules, satisfy his creditor, with a view to obtain his release, the magistrate cannot commute the punishment so awarded to fine and imprisonment; but the prisoner, on payment of the demand against him, must be immediately released. No. 426, 14th July 1826, ... I. 179

4. The magistrate being responsible for the safe custody of the *dewanny* as well as the *foujdaree* prisoners, the appointment and removal of native officers attached to both jails are vested exclusively in him. No. 442, 29th December 1826, ... I. 187

5. A person sentenced to imprisonment by the collector, in a case of illicit opium, made his escape, but was re-apprehended. Held that as his offence amounted to an "attempt to escape," he should be dealt with under Section 4, Regulation III. 1826. No. 486, 15th August 1828, ... I. 206

6. *Dewanny* prisoners are not liable to punishment for escaping from jail. [*Doubtful, See No. 9 infra, and Reg. III.* 1826.] No. 545, 16th April 1830, ... I. 231

7. Prisoners confined under civil process may petition on plain paper, only in matters relating to their treatment in jail. No. 553, 28th May 1830, I. 233

8. Section 2, Regulation VI. 1830, does not preclude the issue of a *dustuck* under Regulation VII. 1799, until subsistence money for thirty days is deposited: but no defaulter can be committed to jail till the deposit be made. No. 575, 24th September 1830, I. 241

9. A civil prisoner cannot be confined in fetters unless he be suffering under a criminal sentence for having broken jail: in other words, fetters cannot be imposed on a civil prisoner merely to ensure his safe custody. No 624, 25th February 1831, ... II. 4

10. The provisions of Reg. VI. 1830, regarding the deposit of subsistence money of persons confined in civil jails, apply to the officers of Government, as well as to private individuals. No. 647, 15th July 1831, ... II. 14

11. The provisions of Clause 1, Section 15, Regulation X. 1818, which specially require the judge to pass orders for the confinement of revenue defaulters, are not affected by Circular Order, 4th January 1833, which relates merely to the cases of prisoners confined under collector's decree under Regulation VIII. 1831. No. 892, C. C. 25th July, W. C. 22d August 1834, ... II. 177

12. It is not competent to a judge to release a civil prisoner, solely on the ground of illness, without the consent of the party at whose instance he was confined. No. 1114, W. C. 24th November, C. C. 8th December 1837, ... II. 328

13. The judge has no right to be considered as the medium of communication on the part of the magistrate with the civil prisoners: nor can the magistrate constitute his office the channel of communication between the judge or collector in regard to prisoners confined under their process. No. 1021, W. and C. C. 8th July 1836, ...II. 263

14. A person having been arrested and released after having been in the custody of the nazir's peons for seven days, in consequence of the plaintiff's not paying his subsistence money; held that as he was not confined in jail, he is still liable to arrest and confinement. No. 1090, C. C. 19th May, W. C. 2d June 1837, ... II. 308

CLAIMS TO PROPERTY ATTACHED IN EXECUTION OF DECREES.

1. Parties in actual possession, claiming property sold in execution of decrees against another person, cannot be summarily dispossessed. No. 10, 18th September 1805,..... I. 3

2. Claims to property attached in execution of decrees are exclusively cognizable by the court ordering the sale: and when such claims are preferred to the collector, he is not to investigate them; *but merely to report them to the court, staying his proceedings till the court's orders are received.* [*The words in italics cancelled by C. O. S. D. A., 4th Sept.* 1840.] No. 794, W. C. 12th June, C. C. 5th July 1833, ... II. 104

3. The expression "objections made to the sale of property within the period of the proclamation" in the Circular Orders, Sudder Dewanny Adawlut, of the 19th July 1833, apply to defendants objecting to the sale of their own property, as to other individuals claiming the property advertised. No. 844, W. C. 22d November, C. C. 6th December 1833, ... II. 142

CLAIMS TO PROPERTY ATTACHED OR SOLD FOR PUBLIC ARREARS.

1. A suit instituted under Clause 4, Section 28, Regulation XI. 1822, by a third party claiming an interest in land sold for arrears of public revenue, must be regular and not summary. No 469, 8th February 1828, ... I 198

2. The judge having been moved by the collector to put B, auction purchaser of the estate of A, sold by public auction, in possession of a portion thereof claimed by C, was told to exercise his discretion in regard to the claim of C, leaving the party dissatisfied to appeal summarily to the provincial court. [*See Cir. Or. Sudder Dewanny Adawlut, 1st Novr.* 1839]. No. 469, 8th February 1828, ... I 198

*** Both these constructions superseded by Act XII. 1841.

CLAIMS TO PROPERTY IN SUITS IN MOONSIFFS' COURTS.

1. Petitions of persons preferring claims to property sued for in the courts of the moonsiffs, under Clause 4, section 6, Regulation V. 1831, are to be written on plain paper. The clause cited applies only to moonsiffs' courts; the course to be pursued in such cases in the zillah and city courts, remaining as it stood before the enactment of Regulation V. 1831. No 706, C. C. 20th July. W. C. 17th August 1832, ... II. 50

CLANDESTINE MARRIAGE.

See "Marriage," No. 2.

COINAGE.

1. Rupees deficient in weight in a greater proportion than 6 annas per cent. are not to be received as standard weight, but as light rupees under Section 4, Regulation LXI. 1795. Those which have not lost weight in a greater proportion than 6 annas per cent. must be received without deduction of batta. No. 294, 20th August 1818, ... I. 117

2. A magistrate cannot punish, for having in his possession counterfeit coin, a person who has been tried by the court of circuit, and acquitted of the charge of uttering counterfeit coin with intent to defraud. No. 362, 26th March 1824, ... I. 150

3. Selling counterfeit gold-mohurs, much defaced, as bullion, knowing the same to be counterfeit, (though unquestionably a fraud and punishable under the general regulations and the provisions of Mahomedan law,) cannot be considered to be "paying or tendering in payment counterfeit coin," under the provisions of Clause 1, Section 10, Regulation XVII. 1817. No. 464, 30th November 1827, ... I. 197

4. Melting down gold and silver coin for the purpose of making ornaments of the metal, is not punishable under the provisions of Clause 3, Section 10, Regulation XVII. 1817. No. 559, 11th June 1830, ... I. 235

5. A magistrate has no power to interfere to regulate the exchange of copper for silver. No. 751, 4th January 1833, ... II. 76

6. The sicca rupee must be taken as the standard for estimating the powers of the native judges in the investigation of suits, until altered by an Act of Government. (*See Cir. Or. Sudder Dewanny Adawlut, 15th April* 1842.) No. 1068, C. C. 20th January, W. C. 3d February 1837, ... II. 294

7. In a suit for *value*, and not for *specific coins*, when the account is in siccas, they are to be converted into Company's rupees by adding thereto 6-10-8 per cent. If for *specific coins*, (as where a man may covenant for the delivery of so many coins of the sicca currency, or so many dollars,) the payment must be in the coin covenanted. No. 1151, 27th April 1838, ... III. 15

8. A magistrate cannot punish by fine and imprisonment *muhajons* or *shroffs*, who are in the habit of demanding illegal batta on Company's rupees. No. 1156, C. and W. C., 29th June 1838, ... III. 17

COLLECTORS.

1. The Court determined that claimants in possession of certain property sold by the collector in execution of a decree against another person, cannot be summarily dispossessed, merely because the lands had been specified in the collector's proclamation as belonging to that other person. No. 10, 18th September 1805, ... I. 3

2. Applications by collectors to the civil courts must be written on stampt paper. [*Superseded by Section* 21, *Regulation XXVI.* 1814.] No. 188, 17th September 1814, ... I. 58

3. The collector, or other public officer in charge of the *abcaree* mehal, is competent to administer an oath in cases coming within the provisions of Section 22, Regulation X. 1813. No. 252, 15th June 1816, ... I. 86

4. On the application of a collector to the civil court for the confinement of a defaulting *tuhseeldar*, or other native officer, the courts cannot proceed in any other manner than according to Sections 16 and 19, Regulation III. 1794, i. e. on the defaulter's denying the justness of the whole or part of the demand, and furnishing security to institute a suit against the collector in fifteen days to contest the demand, and pay what may be adjudged due, the court will release the defaulter; and the security having been given,

the suit must be instituted and proceeded upon as a regular suit. No. 282, 29th December 1817, ... I. 103

5. The zillah judge cannot attach lands, as purchased at a collector's sale in a *fictitious* name, but should communicate all the information and evidence obtained by him relative to the illegal sale to the collector, for the purpose of enabling the latter to make the enquiry and report required by Section 10, Regulation I. 1801. No. 291, 6th May 1818, ... I. 114

6. The process described in Section 11, Regulation XXVII. 1803, for confining the person of a revenue defaulter at the instance of the collector, may be had recourse to on account of all arrears of revenue of whatever standing, and cannot be considered as limited to the balances arising within a period not exceeding a year. No. 315, 26th May 1820,..... I. 129

7. The process also described in Section 14, Regulation XXVII 1803, for realizing the balance by attachment and sale of the defaulter's property may be resorted to for balances of whatever standing. No. 316, 2d June 1820, ... I. 130

8. But the summary process under Section 17, Regulation XXVIII. 1803, for levying penalties for resistance of attachment, which involves the adjudication of a penalty by the civil court, is limited in point of time by Section 6, Regulation II 1805, to one year from the occurrence of the act which gave rise to the proceeding: unless Government being the party suing, (which it virtually is, in the person of the collector,) there be good cause shewn for the delay. No 316, 2d June 1820, ... I. 130

9. A collector cannot decline a suit sent to him for report under Section 30, Regulation II 1819, on the ground of the plaintiff being a public officer of his establishment. No. 320, 28th July 1820,..... I. 132

10. A suit instituted by the *malgoozar*, sent to the civil jail for confinement for default, to contest the collector's demand against him, must be received and tried as a regular suit. No. 330, 17th November 1820, ... I. 135

11. When the alleged defaulter has given security and instituted a suit to try the justness of the arrears of revenue demanded from him, the civil court *may direct the collector not to sell his real property*, [*But see Cons.* 853, *No* 21,] but the collector may attach and sell his personal property. No. 333, 29th December 1820, ... I. 136

12. The sale of *putnee* and *durputnee* tenures in execution of decrees must be conducted by the collector, and the report required by Section 2, Regulation XLV. 1793, made to the commissioner. No. 349, 26th April 1822, ... I. 144

No. 897, 5th September 1824, ... II. 182

13. A magistrate cannot fine a collector for disobeying his orders: the rule in Section 36, Regulation XIV. 1793, being restricted in its operation to decrees and orders of a civil court of judicature. No. 364, 23d April 1824, ... I. 151

No 414, 17th March 1826,..... I. 174

14. Claims for the rent of rent-free lands are summarily cognizable by the collector equally with those for the rent of land paying revenue to Government. No. 599, 12th August 1831,..... I. 249

15. Section 8, Regulation IV. 1821, authorizes the collector to delegate to his assistant his fiscal duties only: and has no reference to the judicial duties delegated to the collector by the judge under Regulations II. 1819, XIV. 1820, or any other regulations; nor to the duties of magistrate vested in a collector, the delegation of which latter to an assistant would in some cases be contrary to Regulations IX. 1807, III. 1821, and I. 1822. No. 603, 21st October 1831,..... I 250

16. Collectors are competent under the powers vested in them by Regulation VIII. 1831, to try cases of resistance of process connected with summary suits for rent. No. 615, 23d December 1831, ... I. 254

17. Collectors are empowered and authorized to execute their summary awards under Regulation VIII. 1831. No. 677, 24th February 1832, ... II. 34

18. The revenue authorities cannot demand that the records of the civil courts be sent to them for inspection No. 693, 18th May 1832,..... II. 43

19. The zillah judge is not competent to stay the execution of a summary award for rent, passed by a collector, pending a regular suit instituted to set aside that award. No 738, W. C 16th November, C. C. 7th December 1832, ... II. 68

20. It is competent to a collector to release a person confined under a summary decree for rent, on proof of insolvency No. 784, C. C. 19th April, W. C. 17th May 1833, ... II. 97

21. The zillah judge cannot stay the sale of the real property of a defaulting *malgoozar*, pending the investigation of a suit instituted to dispute the demand, on a petition being filed previous to the advertisement of the defaulter's lands for sale, and on good security having been furnished to fulfil the award of the court. No. 853, W. C. 27th December 1833, C. C. 17th January 1834,..... II. 146

22. A suit instituted in the zillah court or before the *moonsiff* by a *ryot*, to obtain a reversal of the summary decision of the collector, adjudging a balance against him and ejecting him as a defaulter, must be laid at the amount in dispute, or the sum sued for in the first instance No. 862, W. C. 7th February, C. C 28th February 1834,..... II. 156

23. A collector cannot refer a summary suit to a moonsiff to be tried as a regular suit. No. 879, C. C. 11th April, W. C 2d May 1834, ... II. 168

24. The provisions of Clause 1, Section 5, Regulation X. 1818, which specially require the judge to pass orders for the confinement of defaulters in the cases therein alluded to, are not affected by the Cir. Or. Sudder Dewanny Adawlut, of the 4th January 1833, which declare the collector's warrant to be sufficient authority to the civil jailor to receive or discharge prisoners confined under his orders in execution of his summary decrees. No. 892, C. C. 25th July, W. C. 22d August 1834, ... II. 177

25. The decisions of *punchaets* under Regulation IX. 1833, should be enforced by the revenue authorities, the judicial functionaries having no power to carry them into effect. No. 895, W. C. 5th September, C. C 26th September 1834, ... II. 179

26 A collector cannot, without application to the judge, issue a *perwanneh* to a moonsiff to sell personal property and houses attached by his nazir for arrears of public revenue. No. 918, C. C. 28th November, W. C. 26th December 1834, ... II. 193

No. 989, C. C. 28th November, W. C. 26th December 1835, ... II. 237

27. Summary suits by *malgoozars* against *putwarees* and other native agents employed by them in the management of their estates, under Section 37, Regulation XXVIII. 1803, are now, under Regulation VIII. 1831, cognizable by the revenue authorities. No. 946, W. C. 24th April, C. C. 22d May 1835, ... II. 208

28. The civil courts are competent to issue precepts to the collector, enjoining him to carry their orders into effect, and to return the precept duly executed within a certain period, or to shew good and sufficient cause for the delay No 968, W. C. 31st July, C. C. 21st August 1835, ... II. 222

29. When the civil court is called upon by the collector to put an auction purchaser in possession, if the information given be not sufficiently full, the court should inform the collector wherein it is defective and require further information [*Superseded by Act XII.* 1841.] No. 996, C. C. 2d January, W. C. 29th January 1836, ... II. 241

30. A collector cannot exercise any judicial authority in cases of disputed succession to the estate of a deceased *zumeendar*. His duty is confined, on hearing that any person has succeeded by inheritance to the property of a *malgoozaree* estate or *lakheraj* tenure, to institute such enquiry as may appear necessary to ascertain the truth of the alleged succession, and, if the same appear to have taken place, to make the necessary entries in the proper registers. No. 1008, W. C. 19th May, C. C. 17th June 1836, ... II. 252

31. A collector or officer exercising the power of collector has no authority to issue orders to the police, to aid in the execution of his process under the provisions of Clause 3, Section 24, Regulation VII. 1822, except in very emergent cases, which should also be immediately reported to the magistrate. In ordinary cases, where the collector may have reason to apprehend resistance of his process, he should communicate his apprehensions to the police darogha, who will be responsible for taking such precautionary measures, as may, in his opinion, be necessary to prevent a breach of the peace. No. 1018, W. C. 15th July, C. C. 24th July 1836, ... II. 262

32. The terms of the preamble of Regulation V. 1827, being general, include rent-free lands, as well as lands paying revenue to Government. The attachment, therefore, of rent-free lands should be made through the collector. No. 1039, C. C. 19th August, W. C. 16th September 1836, ... II. 276

33. In suits in which the collector has been improperly made a defendant, the judge, on the case being brought to a hearing under Section 10, Regulation XXVI. 1814, should point out to the plaintiff or his vakeel that he has rendered himself liable to nonsuit, by improperly making the collector, in his official capacity, a defendant: if the plaintiff plead that he has done so through inadvertence, and if it appear to the court that the act was not wilful nor proceeded from any fraudulent or improper motive, the plaintiff may be allowed to file a supplementary plaint withdrawing his claim against the collector as a Government officer, after which the suit will proceed in the usual manner against the other defendants. No. 1075, W. C. 13th January, C. C. 21st February 1837, ... II. 298

34. If the collector, on being required by the judge, under Section 15, Regulation VIII 1831, to transfer the record of a case pending before him, refuse to do so, the judge is competent to proceed according to Section 36, Regulation XIV. 1793. No. 1094, C. C. 23d June, W. C. 14th August 1837, ... II. 311

35. As Section 22, Regulation XII. 1817, does not invest revenue officers with power to examine parties on oath in regard to pensions referred to in Regulation XXIV. 1803, it was held that a prosecution for perjury could not be maintained against a party charged with having in such a case falsely deposed on an oath administered by a collector. No. 1106, W C. 8th September, C. C. 6th October 1837, ... II. 322

36. Should the collector deem the orders issued to him by a civil court illegal, he should nevertheless comply with them, appealing to the superior authority. No. 1110, C. C. 20th August, Government of Bengal, 21st November 1837, ... II. 325

37. It is not competent to a revenue officer engaged in making settlements under the provisions of Regulation IX. 1833, or any other enactment, to interfere in regard to any case pending before any court of judicature at the date of the settlement, either as an original suit, or in appeal; unless the parties themselves apply by petition for the removal of their cause to the court of the settlement officer, with a view to its being decided under the provisions of Sections 5 to 8, Regulation IX. 1833. No. 1128, C. and W. C. 5th February 1838, ... III. 2

38. It is not competent to such officer to interfere under the provisions of the regulation cited, in regard to any case which may have been already judicially decided by a court of civil judicature, either as an original suit or in appeal, unless such interference took place by order of the court or with the consent of the parties. No. 1128, W. C. 5th February 1838, II. 2

39. No case can be tried by a revenue officer in which the cause of action may have arisen more than one year previous to the complaint, and then, only such cases can be taken up by them as regards the extent of interest of parties in possession, and the

decision of which is necessary to the due allotment of the Government jumma, leaving all old and extraneous claims to the decision of the courts. No. 1128, C. and W. C. 5th February 1838, ... III. 2

40. The civil courts cannot summarily interfere with the proceedings of the collectors in regard to the attachment of the property of a ryot in execution of a summary award, or for the realization of the Government revenue. No. 1165, W. C. 20th July, C. C. 17th August 1838, ... III. 23

41. It is competent to a civil court to stay the sale of property about to be sold in execution of the collector's summary award, on the motion of a third party who, claiming it, has instituted a regular suit to establish his claim. No. 1181, C. and W. C. 26th October 1838, ... III. 32

42. When the collector has been improperly sued in his official capacity, the usual notice must be served upon him, and he must appear and defend the suit, or take the consequence of its being allowed to be tried *exparte*. If he appear and the case be nonsuited, the court should direct the payment of the fee of the Government pleader by the collector on the part of Government, leaving him to recover the amount in the usual manner from the party declared liable to the same. No. 1192, W. C. 21st December 1838, C. C. 18th January 1839, ... II. 40

43. It is considered objectionable to allow the native judges to impose fines on collectors for not conforming to their orders. When their orders are not carried into effect, they should report the circumstances of the case to the judge, leaving him to take such steps in the matter, as he may deem proper, consistently with the Regulations. No. 1193, W. and C. C. 21st December 1838,..... .. .. III. 40

44. Section 12, Regulation XLV. 1793, regarding the adjustment by the revenue authorities of the *jumma* of land about to be sold in execution of decrees is applicable only to portions of estates paying revenue direct to Government, and not to *Shikumee* or dependant talooks, the rent of which, payable to the zumeendar, may be disputed between him and the proprietor of the talook. No. 1194, C. and W. C. 28th December 1838, ... III. 41

45. A bidder at a public sale who has been fined by a collector, cannot institute a suit against that officer in the civil court to obtain a refund of the fine. No. 1201, C. C. 15th February, W. C. 8th March 1839,..... III. 44

46. There is nothing in the law as it now stands to warrant the imposition, on the first purchaser of a permanently assessed estate sold for arrears of revenue, who may fail to fulfil the conditions of sale, of any other penalty than the annulment of such sale, and the forfeiture of the amount paid. [*But see Act XX. of* 1840, *and subsequent rule in Section* 16, *Act XII.* 1841, *the new sale law*]. No. 1222, W. C. 3d June, C. C. 5th July 1839, ... III. 55

47. Should it appear to the judge in a case pending before him, under Regulation II. 1819, that the collector has omitted to perform any act he is required by law to do, and has either forwarded his report according to Clause 6, Section 30, or passed a decision under Clause 7, without such defect being remedied, it is competent to and the duty of the judge to point out to the collector his want of conformity to the law applicable to the case, desiring him to rectify the error, and, on his refusal, bring his conduct to the notice of Government. No. 1245, C. C. 23d August, W. C. 13th September 1839, ... III. 63

48. The Courts of Sudder Dewanny Adawlut are not included in the rules contained in Sections 14 and 15, Regulation VIII. 1831, [which require the civil courts and the collectors to transfer pending cases to each other,] as they refer exclusively to the zillah and city courts, and to the courts subordinate to them. No. 1252, C. C. 27th September, W. C. 31st October 1839, ... III. 65

49. Held that Government are competent under Section 3, Regulation IX. 1825, to authorize the revenue authorities, though not employed in revising settlements, to perform all the acts described in Sections 11, 12, 14, and 16 *to* 35, Regulation VII. 1822, in any specified tract within the provinces of Bengal, Behar, Orissa and Benares, in the summary adjudication of suits between individuals;—that the provisions of Regulation IX. 1833, are applicable to adjudications in such parts, made in conformity with those provisions;—and that therefore the collector is competent to adjudge claims connected with disputed boundaries in those tracts. No. 1369, W. C. 27th January, C. C. 10th February 1843, ... III. 101

50. The jurisdiction of the civil courts is only barred by the provisions of Regulation IX. 1833, when the proceedings of the collector or other officer, engaged in making settlements, are in conformity with the rules prescribed in the enactment: and when a suit, brought to set aside the decisions passed and adjustments made by the revenue authorities acting under the law quoted, is deemed admissible, it must be tried and decided, not with reference to the collector's proceedings, but on the merits of the plaintiff's claim. No. 1371, W. C. 7th November 1842, C. C. 17th March 1843, ... III. 101

COMMISSION ON THE RECOVERY OF STOLEN PROPERTY.

1. The provisions of Clause 17, Section 16, Regulation XX 1817, are applicable to the recovery by a police officer of treasure plundered by robbers: but their operation does not extend to other individuals not being police officers, though they may be rewarded for meritorious services, the sanction of such reward being previously obtained by the magistrate from the proper authority. No. 381, 22d April 1825, ... I. 158

2. A kotwal finding 26,000 rupees while searching certain houses, is not entitled to the percentage under Clause 17, Section 16, Regulation XX. 1817, but the magistrate may apply to the superintendent of police to sanction the grant of a reward to him. No. 511, 19th June 1829, ... I. 217

3. A session judge is competent to order the payment to police officers of the commission on the value of stolen property recovered by them. No. 1136, C. C. 9th March 1838, ... III. 7

COMMISSION ON THE SALE OF PROPERTY.

See "Moonsiffs VI." Nos. 3,4.

See "Nazirs." Nos. 3,5.

COMMITMENTS.

1. The courts of circuit at large are empowered by the regulations to annul commitments made by the magistrate. No 114, 26th November 1812, ... I. 33

2. Prisoners committed by joint magistrates not residing at the sudder station, should be forwarded to the sudder station, and brought to trial at the regular sessions of the district, in like manner with prisoners included in the commitments by the magistrate. [*This Construction was superseded by the provisions of Regulation XVII.* 1825, *but the same rule has been re-enacted by Section* 12, *Regulation VII.* 1831.] No. 135, 19th August 1813, ... I. 39

3. Should a magistrate through error or negligence have committed a case of burglary which he is himself competent to dispose of, the judge of circuit should try the case, reporting the conduct of the magistrate for the orders of the Nizamut Adawlut. No. 301, 29th January 1819, ... I. 121

4. Whenever the commitment of one prisoner may be requisite under the regulations, all others implicated in the same offence should likewise be committed. No. 379, 8th April 1825,..... I. 157
No. 622, 28th January 1831,..... II. 3

5. In cases of wounding, the commitment should not be made till the result is known by the death or recovery of the wounded person. No. 558, 3d June 1830, ... I. 235

6. The Constructions Nos. 623 and 628 which declare that a magistrate must commit all cases of affray attended with *sword wounding*, have been superseded by Circular Order, 12th June 1840. No. 623, 4th February 1831,..... ..... II. 3
No. 628, 4th March 1833,..... II. 7

7. A session judge having in his capacity of magistrate committed several prisoners in a case, was informed that he should not try another prisoner implicated in the same case subsequently apprehended and committed by another officer. Nos. 685 and 686, 15th and 27th April 1832,..... II. 39

8. A session judge cannot try a commitment made by himself in his capacity of civil judge. No. 691 W. C. 11th May, C. C. 1st June 1832,..... II. 43

9. A civil judge is not competent to commit a person charged with embezzlement or other crimes than perjury or forgery. If grounds appear for a criminal trial, he should forward the proceedings to the magistrate, who will, however, act according to his own judgment in committing or releasing the accused. No. 691, W. C. 11th May, C. C. 1st June 1832, ... II. 23
No. 975, C. and W. C. 7th August 1835,... II. 227

10. A magistrate cannot originate a prosecution for forgery of a document filed in the civil court. No. 704, 13th July 1832, ... II. 49

11. The Court approved of the annulment by the commissioner of a commitment in a case which the magistrate had power to dispose of. No. 782, 12th April 1833,..... II. 96

12. A session judge may annul a commitment and direct the magistrate to recommit the prisoners on such charge as may appear to him proper. No. 857, 24th January 1834,..... II. 149

*** The Western Court still act upon this construction. The Calcutta Court hold that since the enactment of Act XXXI. of 1841, the session judge cannot order the commitment of a person released by the magistrate or direct that one committed by the magistrate be re-committed upon a higher charge.

13. A magistrate, after he has committed a prisoner for trial, cannot legally quash the commitment, release one or more prisoners, and make him or them witnesses for the prosecution on the same trial. No. 857, 24th January 1834,..... II. 149

14. An order for commitment made by a joint magistrate residing at the sudder station without independent authority, is not liable to reversal by the magistrate of the district. No. 906, W. C. 10th October, C. C. 24th October 1834, ... II. 185

15. A joint magistrate without independent jurisdiction is competent under para. 6 of the resolution of Government dated 1st November 1831, (unless he has been expressly interdicted by the magistrate,) to commit prisoners for trial to the sessions court, and it is not necessary for the magistrate to revise his commitments. No. 911, C. C. 17th October 1834, II. 187

16. In a case of fraudulently filing a petition in the civil court, the civil judge cannot commit for trial, but should refer the case to the magistrate who will commit or not as may appear to him advisable. No. 925, W. C. 9th January, C. C. 27th March 1835, II. 197

17. The declaration on oath of the owner of stolen property is sufficient, in the first instance, to fix the value of the property and determine whether the case of theft or burglary should be committed to the sessions court or disposed of by the magistrate; No. 1030, C. C. 29th July, W. C. 2d September 1836, II. 270

18. The commissioner having annulled a commitment because he did not consider the theft proved,

was told he should have either acquitted the prisoner, or, if he thought the charge susceptible of further proof, have directed the magistrate to supply the defect. No. 1030, C. C. 29th July, W. C. 2d September 1836,..... II. 270

19. On a charge of misdemeanor against a moonsiff, if the judge see reason to believe it is well founded, he should make the case over to the magistrate to be disposed of according to law, directing the Government pleader to prosecute. No. 1069, C. and W. C. 27th January 1837,..... II. 295

20. A session judge is not competent to cancel a commitment merely on the ground of the evidence shewn in the calendar appearing insufficient for conviction. No. 1122, C. C. 29th December 1837, W. C. 19th January 1838,..... II. 334

21. The civil judge sent to the magistrate a case of forgery and fraud and subornation of the same, for filing or causing to be filed a *soolehnameh*, with instructions to commit if he deemed the evidence sufficient—the magistrate did commit. The session judge was informed that the course followed by him was the correct one, and that he was competent as session judge to enter upon the trial. No. 1221, W. C. 31st May, C. C. 5th July 1839, ... III. 54

22. A civil judge cannot commit any party in a civil suit, or other person for fraud: he must refer the case to the magistrate, who will investigate the charge and dispose of it himself; or, if committable, commit it, at his discretion, for trial at the sessions. No. 1225, W. C. 14th June, C. C. 12th July 1839, III. 56

23. A magistrate must commit for burglary a prisoner previously convicted of cattle-stealing; but not for cattle-stealing one before convicted of that offence. No. 1273, C. C. 28th February, W. C. 27th March 1840,..... III. 71

COMPANY'S INVESTMENT.

1. The judge of Etawah was informed that if saltpetre be an article of the Company's investment in the district of Etawah, the principle of the rules contained in Regulation XXXVII. 1803, are by Section 14, applicable to manufacturers and other persons employed in the provision of it. No. 240, 17th February 1816, ... I. 80

2. If the *peons* employed under Clause 5, Section 8, Regulation XXXVII. 1803, be *not* in the receipt of a salary from Government, the *tulabana* payable to them is recoverable from any person failing in his engagement for the delivery of any article of the Company's investment; and, if not paid on demand, may be debited to the defaulter by the commercial residents, and deducted from any sum due to him. It cannot be summarily levied from him, but recourse must be had to a regular suit to enforce payment thereof. No. 267, 26th February 1817, ... I. 94

*** Both these constructions superseded. See Reg. IX. of 1829.

COMPLAINTS AGAINST PUBLIC OFFICERS.

See "Public Officers, complaints against," *passim.*

COMPROMISE OF THEFT.

1. Notwithstanding a private compromise of theft, the magistrate may, if he think proper, direct a public prosecution. No. 318, 7th July 1820,..... I. 131

2. A civil court cannot take cognizance of a suit when a theft has been compromised between the owner of the stolen property and the thief, to compel the restitution of the value taken, should the thief fail to pay it under the terms of the compromise. No. 318, 7th July 1820, ... I. 131

CONDUCT OF TRIALS.

1. The judge of circuit must complete all trials before leaving the station, but may pass sentence at a different station in a trial which he has erroneously referred to the Nizamut Adawlut, which may be returned to him for that purpose. [*Obsolete in consequence of the abolition of the courts of circuit.*] No. 102, 19th May 1812, ... I. 27

2. In cases committed, the accused should generally be required to attend before the circuit court in person: but cases may arise in which personal attendance may be dispensed with. In the event of a doubt on this point, the question should be referred to the law officer under Section 54, Regulation IX. 1793. If the law officer declare the accused warranted by the Mahommedan law, in his application to have his personal attendance dispensed with, the judge will proceed with the trial. On the other hand, if he declare the accused not entitled to the indulgence, or that the determination of the point rested with the judge, the judge would be competent to admit or reject the application as might be deemed just and consistent with proper principle. No. 137, 11th November 1813, I. 40

3. The judge of circuit having referred a trial for dacoity, wounding, and arson, without giving, in his letter or in the proceedings, a clear and explicit opinion as to the guilt or innocence of the prisoner, the case was sent back to him to supply the omission. No. 222, 14th September 1815,..... I. 72

4. The circuit judge concurring with his law officer in convicting four prisoners, but differing from the acquittal of the fifth, should pass sentence on the four, postponing the issue of sentence till the receipt of the Court's order on the trial of the fifth. No. 484, 6th June 1828, ... I. 205

5. A *futwa* convicting on *zun-i-ghalib* or *shubah-i-cuvvee*, (violent presumption,) is a *futwa* of conviction; and the commissioner concurring in such conviction in a case of burglary or theft attended with murder, or wounding or corporal injury endangering life, must pass sentence of [redacted] stripes and imprisonment in transportation for life, and refer the trial to the

Nizamut Adawlut, suspending the issue of his sentence. No. 558, 3d June 1831, ... I. 235

6. A commissioner having passed sentence cannot alter it; he must refer the case to the Nizamut Adawlut. Nos. 629 and 643, 4th March and 17th June 1831, ... II. 7&13

7. Though the prisoner plead "guilty," the trial should proceed in the ordinary course. No. 650, 22d July 1831, ... II. 15

8. A difference of opinion between the presiding officer and the jurors or assessors does not render a reference to the Nizamut Adawlut necessary. No. 783, W. C. 25th March, C. C. 12th April 1833, II. 96

9. A trial having been commenced with the aid of the law officer, the judge cannot call in the aid of a punchayut. No. 835, C. C. 4th October, W. C. 15th November 1833, ... II. 131

10. In the event of a prisoner committed on two counts being convicted on only one count by the session judge, and only on the other by the law officer, the session judge is not competent to pass sentence, but must refer the trial to the Nizamut Adawlut. No. 971, W. C. 7th August, C. C. 28th August 1835, II. 223

11. When a prisoner is committed in several cases, the session judge should try the whole or a sufficient number of them until, on consideration of the several acts established against prisoner, the session judge be of opinion that the punishment of 14 years' imprisonment prescribed in Clause 3, Section 2, Regulation XV. 1814, is sufficient and adequate to the crimes charged, and that no reason therefore exists for trying the remainder. No 1011, W. C. 10th June, C. C 1st July 1836, ... II. 258

12. When prisoners have been tried under false names, on the real name being discovered, the judge should designate them in the warrant by the name under which they were arraigned and pleaded, adding their since discovered real names by an *alias*. No. 1034, C. C. 12th August, W. C. 2d September 1836, ... II. 273

13. The conviction of a prisoner resting principally on the evidence of two females, whose testimony the law officer holds insufficient for conviction, the judge, differing, must refer the trial. No. 1045, C. C. 9th September, W. C. 23d September 1836, II. 279

14. A session judge cannot, except in cases regularly committed, receive evidence which has not been previously heard before the magistrate. If he deem further evidence necessary, he should direct the magistrate to take it, and communicate to him the result. No. 1104, C. and W. C. 1st September 1837, ... II. 320

15. If a prisoner object to examine his own witnesses on the ground of their having been tampered with by the prosecutor, the session judge ought not to examine them. No. 1203, C. C. 15th March, W. C. 30th March 1839, ... III. 44

16. If a session judge trying a commitment made by a civil judge, be of opinion from the evidence that any other party ought also to be committed, his power is restricted to suggesting the expediency of this course to the civil judge, whose compliance therewith is optional. No. 1206, C. C. 1st April, W. C. 26th April 1839, ... III. 48

17. If the evidence for the prosecution is, in the opinion of the session judge and law officer, clearly *insufficient* to prove the charge against the prisoner, it would be superfluous to proceed with the defence. If, on the other hand, the witnesses for the prosecution should make any statement, which, supposing it to be credited, might tend to inculpate or criminate the accused person, the trial must be completed in the usual manner. No. 1256, W. C. 31st October 1839, Government 10th March 1840, ... III. 66

No. 1267, C. C. 4th October, W. C. 31st October, ... III. 70

18. Held as a general rule that the examination of absent witnesses cannot be received in a criminal trial, and that their personal attendance is necessary. [*But see Cir. Or. Nizamut Adawlut, No. 42, vol. III. C. C. 27th March, W. C. 1st May* 1840.] No. 1280, W. C. 26th June, C. C. 7th August 1840, ... III. 74

CONFESSIONS.

1. The vakeels of the civil court may be required to attest confessions—case of a vakeel dismissed for refusing to do so. A police darogha may summon respectable persons to attest confessions—reporting to the magistrate cases of persons refusing to attend. No. 101, 23d August 1812, ... I. 26

2. Though the prisoner plead "guilty," the trial should proceed in the ordinary course. No. 650, 22d July 1831, ... II. 15

3. If the subscribing witnesses are unable to prove a confession, the judge may call on the person by whom it was written, and the police officer, magistrate, or other officer before whom it was made and by whom it was attested, to depose to any circumstances required to be known connected with it. No. 763, 22d February 1833, ... II. 85

CONTEMPT.

1. Two or more judges of the court of circuit are competent, under the general powers vested in them, to annul an order passed by a magistrate imposing a fine on account of contempt of court. But they should be cautious in the exercise of this power. [*Courts of circuit abolished.*] No. 283, 29th December 1817, ... I. 105

2. Evasion of a magistrate's process should be proceeded against under the rules contained in Section 4, Regulation XI. 1796, and Section 26, Regulation XX. 1817; and is not punishable as a contempt under Regulation XII. 1825, which is applicable solely to contempts committed in open court. No. 619, 21st January 1831, ... II. 1

3. It was held that a person, European or Native, who in a petition to a session judge in appeal from the orders of a magistrate, should falsely and maliciously asperse the character of that officer, was punishable for a contempt of court. [*But the Nizamut Adawlut by a Circular Order, dated 22d November* 1839, *directed the mofussil authorities not to act on this construction pending a reference to Government. See Act XXX.* 1841.] No. 1098, C. C. 14th July, W. C. 4th August 1837, ... II. 313

5. Wilful and designed prevarication in a witness, which may not amount to perjury, is punishable as a contempt of court. [*Rescinded by Circular Order Nizamut Adawlut, 3d February,* 1843.] No. 1177, C. 14th September, C. 5th October 1838, III. 30

CONTINGENT CHARGES.

1. Judges, who used formerly to submit contingent charges for the sanction of the provincial court, are now to apply to the civil auditor, or direct to Government. No. 668, 13th January 1832, ... II. 31

2 Applications for the erection and repair of moonsiffs' cutcherries and other contingent charges are to be made direct to Government. No. 701, C. C 6th July 1832, W. C. 17th August and 26th October 1832,..... II. 47

CONVICTION OF AN OFFENCE NOT CHARGED.

1. A prisoner may be convicted as an accessary under an arraignment as a principal for the same offence, or of a less offence when arraigned for a greater one of the same nature and upon the same facts. But if the facts or nature of the crime charged were different, it would not be regular or just to convict the prisoner of a charge against which he had not an opportunity of defending himself. No. 123, 20th March 1813, ... I. 35

CONVICTION OF TWO OR MORE OFFENCES.

1. A magistrate is competent to award the punishment he is empowered to adjudge by Sections 38 and 39, Regulation IX. 1807, against the same person on each conviction of repeated offences. [*But see Regulation VI.* 1824.] No. 205, 25th May 1815, ... I. 66

2. The magistrate cannot exceed the sentence he is competent to pass under Regulation XII. 1818, if he think a prisoner for two or more offences deserving a heavier punishment, he must commit [*Further rules for the guidance of the magistrate in such cases are laid down in Regulation VI.* 1824.] No. 307, 3d September 1819,..... I. 124

3. A judge of circuit convicting a prisoner of three offences for which he considers imprisonment for 14 years with *tusheer* sufficient, cannot add a sentence of *tusheer*, that mode of punishment not being mentioned in Clause 1, Section 2, Regulation XV. 1814. No. 360, 26th December 1823,..... I. 149

4. When a prisoner is committed in several cases, the session judge should try the whole or a sufficient number of them, until, on a consideration of the several acts established against the prisoner, the session judge is of opinion that a sentence of 14 years' imprisonment prescribed by Clause 3, Section 2, Regulation XV. 1814, is sufficient and adequate to the crimes charged, and that no reason, therefore, exists for trying the remainder. No. 1011, W. C. 10th June, C. C. 1st July 1836,..... II. 258

COOLEES.

See "Begars," *passim.*

COPIES.

See "Stamps, VIII." *passim.*

1. The prohibition contained in Section 2, Regulation VIII. 1825, against the employment of other than the duly constituted officers of the court, need not be construed to preclude other persons than the regularly appointed officers of the court from taking copies of public documents, with the sanction of the judge or magistrate, for the use of private individuals, at the expense of those who may employ them. No. 407, 11th November 1825, ... I. 171

2. Clause 4, Section 16, Regulation XXVI. 1814, not having been rescinded by Regulation XVI. 1824, private persons may be allowed to take copies of public papers for their own use, at their own expense, on any paper they please. No. 408, 2d December 1825, ... I. 171

CORPORAL PUNISHMENT.

1. Corporal punishment is not authorized in cases of homicide. [*Consequently no additional period of imprisonment can be given in lieu thereof under Section 2, Regulation II.* 1834.] No. 352, 2d May 1823, ... I. 146

2. In executing sentences, on the abolition of the *corah*, the magistrate was directed to substitute an equal number of strokes of the ratan. [*Superseded by Section 2, Regulation II.* 1834.] No. 402, 24th August 1825,..... I. 168

3. Assistants vested with special powers cannot award a longer term of imprisonment in lieu of stripes than one month; but may refer the case to the magistrate if they think the prisoner deserving of a more severe sentence than they can pass. No. 883, W. C. 18th April, C. C. 2d May 1834, ... II. 170

4. Corporal punishment cannot be inflicted on a prisoner convicted of making his escape: it can only be inflicted when absolutely necessary for maintaining good order and discipline in the jail. No. 993, W. C. 24th December 1835, C. C. 22d January 1836, II. 240

5. A sentence of imprisonment for one year in lieu of stripes, in addition to a sentence of six months' imprisonment passed by a magistrate, is not illegal under the wording of Clause 2, Section 2, Regulation II. 1834. No. 1183, W. C. 12th October, C.C. 9th November, 1838, ... III. 33

6. A magistrate is competent to award one year in lieu of corporal punishment in addition to the term he is authorized to award under Section 5, Regulation XII. 1818, in case of a convict making his escape. No 1184, W. C. 12th October, C. C 9th November 1838, ... III. 33

7. It is not competent to a session judge to award stripes under Section 6, Regulation II. 1834, that power being vested solely in the magistrate for the maintenance of discipline in the jail No 1302, W. C. 2d July, C. C. 30th July 1841, ... III. 81

See "Neglect of duty by guards, &c."

COSTS IN CIVIL COURTS.

1. When costs are included in a decree, they become part of the matter awarded by the court passing the decree, and as such are liable to interest. No. 715, W. C. 7th September, C. C. 5th October, 1832, II. 56

2. Interest on costs should be granted in all cases, whether the claim be for money, land, or other description of property. No. 1095, C. C. 30th June, W. C. 21st July 1837, ... II. 312

3. The civil courts are competent to award costs in miscellaneous cases. No. 1155, W. C. 22d June, C. C. 18th July 1838, ... II. 16

4. Costs of suit should not be added to the original amount in cases of appeal. No. 1190, C. and W. C. 14th December 1838, ... III. 40

COSTS IN CRIMINAL COURTS.

1. Costs incurred in a criminal court are not recoverable by civil action. If a magistrate, through oversight, have omitted to order reimbursement of costs, he is at liberty to supply the omission by a subsequent order upon application of the party for that purpose. No 367, 2d July 1824, ... I. 153

2 Costs are in no case to be reimbursed from the Government treasury, but must be levied from the failing party in like manner as costs adjudged in civil suits. No. 373, 21st January 1825, ... I. 153

3. The magistrates may adjudge a reimbursement of costs actually incurred by either of the parties to the suit, in particular instances wherein they shall consider such reimbursement just and equitable. No. 505, 8th May 1829, ... I. 215

4. The payment of costs awarded by a magistrate are to be enforced by the attachment and sale of the property of the party against whom they are awarded No. 590, 8th April 1831, ... I. 247

5. The criminal courts cannot award any compensation or damages beyond reimbursement of actual costs. The party must be referred to a civil action. No. 931, 31st January 1835, ... II. 20

COURTS OF CIRCUIT.

See "Magistrates' orders, appeals from and revision of."

COURT OF WARDS.

See "Government and its officers, suits against."
"Guardians and minors," Nos. 2, 5,
"Leases." Nos. 2, 3.

CRIMES COMMITTED IN FOREIGN TERRITORIES.

See "Foreign territories, crimes committed in," *passim.*

CRIMINAL APPEALS.

See "Magistrates' orders, appeals from and revision of," *passim.*
See "Dispossession or disputed possession, summary process of criminal courts in cases of," Nos. 5, 13, 20.

CURATOR.

1. Held with reference to the provisions of Section 3, Act XIX. 1843, that the complainant must appear in person to make the solemn declaration thereby required, and such declaration cannot be made through an authorized agent. No. 1319, C. C. 11th February, W. C. 4th March 1842, ... III. 85

CUSTOMS.

1. The term "exact" in Section 39, Regulation IX. 1810, must be construed to apply to the actual collection, and not the mere demand of the illegal duties adverted to in that section; the demand, however, is a misdemeanor under the Regulation and Mahomedan law. No. 76, 31st January 1811,... I. 18

2. A police darogha is not required to perform the duties prescribed by Section 22, Regulation I. 1812, to prevent an evasion of custom duties. No. 317, 30th June 1820, ... I. 130

DACOITY.

See "Gang robbery," *passim.*

DAMAGES.

1. The provisions of Regulation XV. 1824, [repealed by Act IV. of 1840,] though they prohibit a magistrate from awarding damages for loss of crops or injuries sustained from dispossession, do not pre-

clude him from restoring a party wrongfully dispossessed to the possession of the land with the crop upon it, although the latter may be sown by the wrongful dispossessor. No. 378, 8th April 1825, I. 156

2. Suits by *khoodkasht* ryots for damages sustained in consequence of ejectment, and claims for damages arising from being deprived of water for the purposes of irrigation, do not come within the prohibition contained in Clause 2, Section 5, Regulation V. 1831, and Section 4, Regulation XXVIII. 1814, which apply to suits for damages of a personal nature, and not to those for damages done to property: such suits consequently are cognizable by moonsiffs and may be brought by a pauper. [*The restriction against the cognizance by moonsiffs of suits for personal damages has been removed by Section* 8, *Act VI.* 1843.] No. 919, W. C. 5th December, C. C. 26th December 1834,..... II. 194

3. The criminal courts cannot award compensation or damages in any criminal prosecution, except reimbursement of costs actually incurred. No. 931, 31st January 1835, ... II. 200

4. A suit for the recovery of damages in a civil court can be legally sustained against a party who has been already punished for abduction by a sentence of the criminal court. No. 1251, W. C. 20th September, C. C. 1st November 1839, ... III. 64

5. Suits involving indemnificatory claims to an arbitrary amount of damages, in respect to marriage, on account of breach of contract, or in regard to slander, on account of loss of character, are not cognizable by moonsiffs: but a claim on account of specific loss sustained by expences actually incurred in prosecuting a marriage afterwards broken off, would be triable by a moonsiff like any other claim to money. [*By Section* 8, *Act VI.* 1843, *the moonsiff's are vested with power to try such suits.*] No. 1257, C. and W. C. 1st November 1839,..... III. 67

6. Suits for personal damages and rent-free lands and those enumerated in Clause 2, Section 13, Regulation XXIII. 1814, *though the value do not exceed* 300 *rupees, are not cognizable by a* moonsiff, *(see notes on Constructions* 919 *&* 1257, *Nos.* 2 *&* 5*);* consequently when referred to a sudder ameen, they are subject to the stamp duty prescribed for his court. No. 1277, C. C. 10th April, W. C. 24th April 1840, ... III. 73

DAWK.

See "Post Office," *passim.*

DECEASED PERSONS, DEBTS OF.

1. Petitions for certificates to collect the debts of deceased persons must be engrossed on the stamp prescribed by Article 7, Section B. Regulation X. 1829, and written in the official language, that objectors may know the nature of the applicant's claim, though parties may, if they please, accompany such petition with an English translation. No. 1316, W. C. 14th January, C. C. 11th February 1842, ... III. 84

2. The certificate should be granted on plain paper. No. 1316, W. C. 14th January, C. C. 11th February 1842, ... III. 84

DECEASED PERSONS, SUCCESSION TO THE ESTATES OF.

1. The complainant must appear in person to make the solemn declaration required by Section 3, Act XIX. 1841: such declaration cannot be made through an authorized agent. No. 1319, C. C. 11th February, W. C. 4th March 1842, ... III. 85

DECISIONS SUMMARILY CONFIRMED.

1. When a decision is summarily confirmed without summoning the respondent, the appellant is not entitled to a refund of any part of the stampt paper, and the vakeel is entitled to his full fee. Should the respondent appear by vakeel without being summoned, and defend the appeal, he must pay his own vakeel; but if the case should be sent back for re-trial, the stamp duty will be returned to the appellant and the pleader will receive one-fourth of the full fee. No. 675, 17th February 1832,..... II. 33

2. All first appeals must be admitted as a matter of course, if preferred within the prescribed period: so that the confirmation of the decision of the lower court, prior to the perusal of the original proceedings, is not rejection, but a final dismissal of the appeal on consideration of its merits. No. 742, 12th December 1832,..... II. 70

3. Decisions passed in the lower courts, and confirmed in appeal by the judge after summoning the respondent, must be considered as decrees of the judge's court, and executed under the rules applicable to the execution of such decrees. [*Section* 5, *Act VI.* 1843, *provides that applications for execution of the decisions of the appellate court in such cases shall be made to the court of original jurisdiction.*] No. 780, C. C. 12th April, W. C. 10th May 1833,..... II. 94

No. 861, C. C. 7th February, W. C. 28th February 1834, ... II. 155

4. An appellant should not be allowed to bring forward fresh proofs, in support of his case, until the petition of appeal and decree have been read over by the judge. No. 790, W. C. 10th May, C. C. 7th June 1833, ... II. 102

5. A principal sudder ameen cannot summarily confirm the decision of the lower court without summoning the respondent. No. 796, W. C. 14th June, C. C. 5th July 1833,..... II. 105

6. When in appeal the decision is summarily confirmed, the cases are to be considered as decided

on the merits and entered as such in the monthly statements, the vukeels being entitled to the full fee, and no part of the stampt paper being returnable. No. 878, W. C. 11th April, C. C. 2d May 1834, ... II. 167

7. No decision can be passed against a respondent who has not been summoned in the usual manner. No. 944, W. C. 10th April, C. C. 1st May 1835, ... II. 207

8. A zillah judge cannot summarily set aside the decision of a moonsiff appointed under the provisions of Regulation V. 1831, from which no appeal has been preferred on the score of illegality or irregularity: but he may admit an appeal therefrom after the lapse of the prescribed period, on sufficient excuse for delay being shewn. No. 979, C. C. 11th September, W. C. 2d October 1835, ... II. 228

No. 1048, C. C. 30th September, W. C. 21st October 1836, ... II. 281

9. When the Sudder Dewanny Adawlut has rejected an application for a special appeal from the decision of a zillah judge in appeal from that of a principal sudder ameen, the zillah judge may apply for permission to review his judgment: but when the Sudder Dewanny Adawlut has summarily confirmed in appeal an original decision of the zillah judge, the order is to all intents and purposes a judgment, and open to review by the Sudder Dewanny Adawlut only. No. 1057, C. C. 11th November, W. C. 25th November 1836, ... II. 287

10. In an appeal from the decision of a collector under Clause 7, Section 30, Regulation II. 1819, the decision cannot be summarily confirmed: the respondent must be summoned, and the appeal tried in the usual manner. No. 1076, C. C. 24th February, W. C. 10th February 1837, ... II. 299

DEEDS.

See "Stamps, II." *passim.*
For forged deeds, see "Forgery."

DEFAULT.

See "Dismissal on default and nonsuit," *passim.*

DEFAULTERS, CONFINEMENT OF REVENUE.

See "Civil jails and prisoners," No. 11.

DEFAULTING REVENUE OFFICER.

See "Native officers," No. 9.

DEFENDANTS ABSCONDING.

See "Arrest," No. 5.
See "Attachment," No. 6, 14, 17, 19, 20.

DEPOSIT OF MONEY IN COURT.

1. Money deposited in court as payable to a party, should never be paid to a *vakeel*, save under specific authority conveyed in the *vakalutnamah*: and for any sums paid in other mode, the officers making the disbursement must be held personally responsible. No. 1360, W. C. 5th August, C. C. 9th September, 1842, ... III. 97

See "Pleaders in civil courts," No. 7.

DEPOSIT OR PLEDGE.

See "Mortgage," No. 18.

DEPUTATION.

See "Assistants to Magistrates," No. 9.

DISMISSAL ON DEFAULT.

1. It is competent to the court to dismiss a suit on default at the first hearing after the notice prescribed by C. O. S. D. A. 5th November 1812, provided the defaulting party be unable to shew reasonable cause for his default. It is not necessary that the eight days' notice prescribed by Clause 1, Section 12, Regulation XXVI. 1814, should be previously issued: the object of that notice being to warn the parties to be prepared to file their proofs and name their witnesses. Had the defaulting party shewn reasonable cause, and on that ground been allowed to plead, he would have been entitled to the eight days' notice, which the rule cited allows. [*Constructions* 406, 470, 473, 938, 1139, *may be considered as cancelled by Act XXIX.* 1841, *which provides that a suit or appeal shall be struck off, as of course, on default of six weeks on part of the plaintiff or appellant.*] No. 406, 7th October 1825, ... I. 170

2. When the judge had dismissed a suit on default without the notice prescribed by C. O. S. D. A. 5th November 1812, or had refused to hear what the appellant, having attended, had to say in excuse of his default; the provincial court were considered competent to direct the judge to hear the excuses, and if they proved sufficient to restore the suit to the file. [See Note on No. 1.] No. 470, 22d February 1828, ... I. 201

3. The notice to shew cause why the appeal should not be dismissed on default, need not be issued if the appellant be in attendance by vakeel. [See Note on No. 1.] No. 473, 22d February 1828, I. 201

4. A summary appeal will lie, as from a dismissal without investigation of the merits, from the decision of a sudder ameen founded on a decision of the zillah judge, reversed in appeal by the provincial court. No. 551, 7th May 1830, ... I. 232

5. It is not necessary, in cases in the moonsiffs' courts, that the period within which the defaulting plaintiff is to shew cause should be fixed at six weeks: eight days or a fortnight would on ordinary occasions be a sufficient time to allow for the purpose. [Cancelled by Construction 1339.] No. 758, 15th February 1833, ... II. 83

6. When a suit has been dismissed on default, the plaintiff is at liberty to institute a new suit for the same cause of action, as if the case had not been heard. No. 870, W. C. 21st February, C. C. 27th March 1834, ... II. 159

7. If there have been no decision on the merits, but merely a dismissal pronounced on default, the omission of the word "nonsuit" does not bar the claim of the plaintiffs to a summary appeal. No. 870, W. C. 21st February, C. C. 27th March 1832, ... II. 159

8. Under the rules in force prior to the enactment of Act XXII. 1838, which did not allow a summary appeal from a moonsiff's decision, it was held that the judge, on a regular appeal being preferred, could not confirm the dismissal on default by the moonsiff, with mere reference to the reasons assigned for neglect in the original trial, but must either decide the case on its merits, or direct the moonsiff to do so, reversing the dismissal on default. The same rule applies to appeals by defendants on the grounds of decision given against them when prevented by circumstances from attending the court. No. 870, W. C. 21st February, C. C. 27th March 1834, ... II. 159

9. If the appellant has appointed a vakeel, he may be called upon to shew cause for neglect, and if no satisfactory reason be given, the appeal may be struck off: but if the appellant be not in attendance in person or by vakeel, the notice prescribed by Circular Order, Sudder Dewanny Adawlut, 5th November 1812, must be served upon him ere his appeal can be struck off. (See Note on No. 1.) No. 938, 20th March 1835, ... II. 204

10. In a regular suit in which the witnesses named by the plaintiff, though duly summoned, neglected to appear; held that it was incumbent on the judge under the spirit of Section 6, Regulation IV. 1793, to call on plaintiff's counsel to satisfy him that these witnesses were material to the case, and that he ought not to have struck the case off the file, until he had explicitly called upon the party to proceed in the manner indicated. No. 1126, 26th January, 1838, ... III. 2

11. A petition of special appeal, until the appeal has been admitted, is to be considered as a miscellaneous petition; consequently the notice prescribed by the Circular Order, Sudder Dewanny Adawlut, 5th November 1812, need not be issued, as that notice only applies to suits admitted and pending. (See Note on No. 1.) No. 1139, 23d March 1838, ... III. 8

12. Held that Section 12, Regulation XXVI. 1814, [which requires an eight days' notice to be fixed up in court before the suit be brought to a hearing,] is only applicable to original suits and not to appeals. No. 1191, C. and W. C. 14th December 1838, III. 40

13. The order of a judge dismissing a suit on default, or without investigation of its merits, is open to review. No. 1269, W. C. 3d January, C. C. 7th February 1840, ... III. 70

14. If the appellant to the Sudder Dewanny Adawlut do not appear in person or by vakeel and file his reasons of appeal within six weeks from the date of the institution of the appeal, [i. e. in appeals presented to the court from the date of filing the petition, or, when the petition is filed in the court of original jurisdiction, from the date of its receipt in the Sudder Dewanny Adawlut,] he must be held to have defaulted, and be liable to the dismissal of his appeal; and the mere appointment of a vakeel will not bar the liability referred to. No. 1315, C. C. 31st December 1841, W. C. 7th January 1842, III. 84

15. When an appeal has been dismissed under Act XXIX. 1841, the opposite party will not be entitled to recover his costs, if he appear without having been duly summoned as a respondent. No. 1327, W. C. 18th February, C. C. 4th March 1842, III. 87

16. The rule in Act XXIX. 1841, is general and applies to all appeals—if therefore an appellant to the zillah judge, default under that Act, his appeal is lost and cannot be revived. No. 1334, W. C. 15th April, C. C. 27th May 1842, ... III. 89

17. Construction 758 superseded. No suit can be struck off by a moonsiff prior to filing the answer, until the plaintiff have committed default for six weeks. No. 1339, W. C. 18th May, C. C. 10th June 1842, ... III. 91

18. The interval of the established vacations must not be allowed to be deducted in the calculation of the period beyond which default is incurred under Act XXIX. 1841. No. 1368, W. C. 2d December, C. C. 23d December 1842, ... III. 100

DISPOSSESSION OR DISPUTED POSSESSION, SUMMARY PROCESS OF THE CIVIL COURTS IN CASES OF.

1. *(The provisions of Regulation XLIX.* 1793, *and corresponding enactments, as well as those of Regulation VI.* 1813, *which authorized the reference of cases of disputed possession by the criminal to the civil court, are rescinded and altogether superseded by the provisions of Act IV.* 1840, *so that now cases of dispossession are not cognizable in a summary manner by the civil courts.)*

2. The provincial court having rejected a summary appeal under Regulation XLIX. 1793, were directed to admit it to try the question of the relevancy of that regulation to the suit in question. No. 17, 29th January 1806, ... I. 5

3. It is not meant that the summary enquiry into the *fact* of dispossession should be *exparte:*

but only that the enquiry be restricted to that fact alone, without an investigation as to the *right* of possession or property. No. 26, 27th September 1806, ... I. 7

4. Complaints of forcible dispossession from fisheries, tanks, &c. should be taken up under Regulation XLIX. 1793, and the corresponding regulations. No. 28, 28th February 1807, ... I. 8

5. The provisions above cited are applicable only to cases of dispossession by force amounting to a breach of the peace: the fact of dispossession only being the subject of enquiry—all matters of right being cognizable in a regular suit. No. 39, 22d June 1808,... I. 10

6. A proprietor of land is authorized to oust his defaulting ryot, without application to a court of justice, provided no violence is used so as to bring the case within the provisions of Regulation XLIX. 1793. No. 42, 17th September 1808,..... I. 10

7. A plaintiff in a summary suit may prefer his claim in person or by vakeel, and need not prefer it on oath or solemn declaration. No. 110, 3d September 1812,..... I. 29

8. In cases of disputed possession referred from the Foujdaree, under Regulation VI. 1813, the judge should allow a reasonable time to the parties to appear in person or by vakeel and adduce their proofs: should they fail to do so, and an attachment of the land be necessary to prevent a breach of the peace, that measure may be resorted to. No. 140, 23d December 1813,..... I. 42

9. In case of the expiration of the plaintiff's lease before the summary action for possession and damages is determined, though it may not be requisite or proper to adjudge possession to the plaintiff, equitable damages equal to the loss sustained by him, during the period of his lease, should be adjudged to him. No. 158, 28th April 1814,..... I. 48

10. An appeal lies from the decision of the zillah judge passed under Section 5, Regulation VI. 1813, only on the ground of the irrelevancy of the Regulation to the case appealed. No. 281, 18th September 1817,..... I. 103

No. 311, 7th January 1820, ... I. 128

11. The provincial court were considered competent to direct the judge to interfere summarily to prevent certain persons molesting the occupant in possession of a garden. No. 308, 19th November 1819,..... I. 125

12. The judge cannot take up cases of dispossession referred by the foujdaree court during the vacations. No. 368, 2d September 1824..... I. 153

13. Differences between landlords and their tenants or ryots relative to the right of cultivation only, are not cognizable by the magistrate under Regulation XV. 1824, but must be brought in the civil court under Regulation XLIX. 1793, and Regulation VIII. 1819. No. 482, 9th May 1828,..... I. 205

14. Summary suits for dispossession under Regulation XLIX. 1793, cannot be referred to a principal sudder ameen. [*Superseded by Section* 8, *Act XXV.* 1837. *See Con.* 1202, *No.* 15.] No. 995, C. C. 24th December 1835, W. C. 22d January 1836, ... II. 241

15. An appeal lies to the judge from the decision of the principal sudder ameen under Regulation XLIX. 1793, on its merits and not merely on the ground of irrelevancy. No. 1202, C. C. 15th February, W. C. 8th March 1839,..... III. 44

DISPOSSESSION OR DISPUTED POSSESSION, SUMMARY PROCESS OF THE CRIMINAL COURTS IN CASES OF.

1. The following constructions, which restrict the remedy which the magistrate might afford under Regulation XV. 1824, in cases of dispossession or disputed possession, to cases in which the proprietors of the land are engaged, and which declare it inapplicable to cases in which ryots or under tenants dispute the right of cultivation only, which are to be determined by the civil court or collector under Regulations XLIX. 1793 or VIII. 1819, are superseded by Section 2, Act IV. 1840, which authorizes the magistrate to determine all disputes of this nature, whether the parties are proprietors, dependant talookdars, farmers, under farmers, ryots or other persons.

No. 448, 16th March 1827, ... I. 189

No. 453, 13th July 1827, ... I. 191

No. 475, 7th March 1828, ... I. 201

No. 482, 9th May 1828, ... I. 203

No. 546, 23d April 1830, ... I. 231

No. 561, 18th June 1830, ... I. 236

No. 568, 23d July 1830, ... I. 238

No. 579, 17th December 1830, ... I. 242

No. 633, 29th April 1831,..... II. 8

No. 894, C. C. 22d August, W. C. 25th July 1834, ... II. 178

No. 1170, C. & W. C. 7th September 1838, III. 27

2. The provisions of Section 5, Regulation XV. 1824, which prohibit magistrates from awarding damages for loss of crops, or injuries sustained by dispossession, do not preclude the magistrate from restoring to a party wrongfully dispossessed the possession of the land with the crop upon it, though the latter may have been sown by the wrongful possessor. No. 378, 8th April 1825,..... I. 156

3. Held that a magistrate had exceeded his powers in giving possession to the purchaser of mortgaged property, to the exclusion of the mortgager, on the plea that the mortgage had been redeemed, although the purchaser up to the date of the dispute had never had possession. No. 393, 17th June 1825,..... I. 164

4. Cases under Regulation XV. 1824, cannot be referred to a sudder ameen vested with special powers under Section 5, Regulation II. 1821. No. 415, 14th April 1826, ... I. 174

5. The Constructions 430 and 447, which declared the orders of magistrates under Regulation XV. 1824, open to appeal on the ground of irrelevancy only, are superseded by the provisions of Regulation II. 1829 and Act IV. 1840, which declare such cases open to the usual appeal as in other miscellaneous cases. No. 430, 22d September 1826, ... I. 181
No. 447, 9th March 1827, ... I. 188

6. A having locked up his house at Jaunpoor previous to his departure for Benares, his possession must be held to have continued during his absence; and the violent entry by B, effected by forcibly opening a lock, must be considered to constitute a case of dispossession within the meaning of Regulation XV. 1824; while A's absence was considered as a sufficient cause for the delay in bringing the suit. No. 434, 27th October 1826, ... I. 182

7. A magistrate's order under Regulation XV. 1824, held not to have been affected by that of the collector directing possession to be given to a certain party. No. 445, 2d March 1827, ... I. 188

8. Disputes for personal property cannot be investigated under Regulation XV. 1824. No. 547, 23d April 1830, ... I. 231

9. A magistrate cannot refer disputes under Regulation XV. 1824, to arbitration and enforce the award of arbitrators. His interference extends no further than to prevent a breach of the peace, and when satisfied that the parties have agreed to an adjustment of their dispute, and that there is no ground to apprehend a breach of the peace, he should stay all further proceedings; the parties being of course at liberty to refer their dispute to private arbitration, which would be enforced by the civil court in the usual manner. [*The Construction is cancelled by Sec. 9, Act IV. 1840, by which a magistrate is authorized to refer suits to arbitration.*] No. 571, 6th August 1830, I. 239

10. A magistrate cannot refer a Regulation XV. 1824, suit for report to a sudder ameen. No. 640, 10th June 1831. No. 689, 27th April 1832, II. 12 & 41

11. In a case of disputed possession, the plaintiff asserted that the lands were situated in Purneah, the defendant that they were in Bhaugulpore. The magistrate of Purneah was informed that if the case were cognizable under Regulation XV. 1824, he should make the necessary enquiry; and if it should appear that the lands were in Bhaugulpore, he should refer the parties to the magistrate of that district, and certify to that officer the proceedings held by him in the case. No. 694, 18th May 1832, ... II. 44

12. A magistrate may determine boundary disputes under Regulation XV. 1824. No. 724, 26th October 1832, ... II. 60

13. An assistant vested with special powers is competent to try suits under Regulation XV. 1824, and the magistrate is competent, under the general power vested in him, to confirm, alter, or reverse the order passed by the assistant in such suits. No. 769, C. C. 15th March, W. C. 4th April 1833, ... II. 87

14. Complaints of violent dispossession from fisheries, tanks, &c., are cognizable by the criminal courts under Regulation XV. 1824. No. 855, C. C. 17th January, W. C. 14th February 1834, ... II. 148

15. A magistrate is not competent, after the enactment of Regulation XV. 1824, to certify a case of disputed possession to the civil court under Regulation VI. 1813. No. 875, C. C. 21st March, W. C. 7th March 1834, ... II. 164

16. A commissioner may order a magistrate to take up a case of disputed possession, though the latter do not deem that measure necessary for the preservation of the peace. No. 886, C. C. 13th June, W. C. 11th July 1834, ... II. 172

17. The provisions of Regulation XV. 1824, are applicable to cases of disputed possession between mortgagers and mortgagees, when such disputes may appear to the magistrate likely to terminate in a breach of the peace, and the question is in no way affected by the fact of the mortgage or transfer of property under it, having been registered or not. No. 1006, W. C. 15th April, C. C. 20th May 1836, ... II. 250

18. If neither party in a suit brought under Regulation XV. 1824, will appear and produce their evidence and proofs, the magistrate should strike the case off the file, taking such measures as may appear necessary to prevent a breach of the peace, extending even to the attachment of the property if necessary. If one of the parties should attend and produce his proofs, the case should be tried *exparte*. No. 1029, C. C. 29th July, W. C. 19th August 1836, ... II. 269

19. A magistrate is competent, with a view to prevent affrays and breaches of the peace, in cases of disputes about land gained by alluvion, to put one of the parties in possession, being guided in his decision by the principle laid down in Regulation XI. 1825. No. 1146, 20th April 1838, ... III. 12

20. A session judge is competent at any time to suspend the execution of a magistrate's final order in cases under Regulation XV. 1824, pending the decision of the case in appeal. No. 1157, W. C. 6th July, C. C. 3d August 1838, ... III. 17

21. A dispute between a zumeendar and the proprietor of the *bunkur* of the same zumeendaree, is cognizable by the magistrate under Regulation XV. 1824. No. 1164, C. C. 10th August, W. C. 27th July 1838, ... III. 21

22. In a suit under Act IV. 1840, should the auction purchaser plead that he, in attaching the talook of a *putneedar* created by the former proprietor, is only exercising his legal right, the magistrate will, under Section 10, satisfy himself whether the contested tenure is of that description which is protected by law: in cases in which the tenure is not of that description, the purchaser is not obliged to apply to any court for the enforcement of his rights. No. 1312, C. C. 22d October, W. C. 26th November 1841, ... III. 83

23. Disputes between zumeendars and *kuthenahdars*, not for possession of defined portions of land, but for the right of management and collection of estates, should be governed by Section 10, Act IV. 1840; the zumeendar who possesses the right of attachment should be held in possession—the other party being referred to a civil suit to determine whether the zumeendar has justly exercised that right. No. 1333, W. C. 15th April, C. C. 27th May 1842, ... III. 89

24. An assistant to a magistrate vested with special powers is competent to dispose of cases under Act IV. 1840. No. 1344, W. C. 20th June, C. C. 8th July 1842, ... III. 92

25. A magistrate cannot attach land *pending* the decision of a suit under Act IV. 1840, nor call on the collector to do so under Regulation V. 1827, before he has come to a decision on the case. No. 1347, C. C. 24th June, W. C. 2d August 1842, III. 92

26. In a dispute for chattels or other moveable property, if the fact of illegal and forcible dispossession have been established, the magistrate is competent to interfere: but not otherwise. No. 1349, W. C. 1st July, C. C. 29th July 1842,..... III. 93

27. A, a ryot, asserting himself to be under engagements to B, an indigo planter, complains that C, another planter, who states that he made advances to A, is about forcibly to cut the crop. Held that A being in possession, may deliver the disputed plant to either B or C, and that the magistrate under Act IV. 1840, may prohibit C from attempting to take forcible possession; C having his remedy in the civil court under Regulation VI. 1813 and Act X. 1836. No. 1359, C. C. 5th August, W. C. 2d September 1842,..... III. 97

28. In a dispute between the proprietor and mortgagee of an orchard, the magistrate, on proof of possession of the latter, maintained his possession: the session judge on appeal directed the magistrate to maintain the proprietor in possession and refer the mortgagee to the civil court. The Nizamut Adawlut held that the course adopted by the magistrate was right. No. 1366, W. C. 2d December, C. C. 23d December 1842, ... III. 98

DISTRAINT.

1. The process of distraint was primarily intended to enable landholders and farmers to realize their rents for the current year with punctuality: but Regulation II. 1805, does not restrict the process from being employed for arrears of a former year, provided the person upon whom the distress is levied continue to be an under tenant of the distrainer. No. 27, 1st February 1807, ... I. 7

2. The rule contained in Section 6, Regulation XVII. 1793, and Section 6, Regulation XXVIII. 1803, that, in cases of illegal distraint, there should be adjudged to the injured tenant restitution of the value lost by him by the distraint, and as much again as damages, is equally intended by Section 17, Regulation V. 1812, which provides, that the tenant may have his remedy by a summary suit, which was before confined to a regular suit—the quantum of the remedy allowed being unaltered. No. 327, 1st September 1820, ... I. 134

3. The rules of distraint being general, apply to rent of lands exempt from the public assessment as well as to the rent of lands subject thereto. No. 337, 23d February 1821, ... I. 138

4. Individuals other than the alleged defaulter and his surety, who may lay claim to distrained property, are not entitled to the release of such property on security; nor can their claims be investigated, according to the provisions of Section 15, Regulation V. 1812. Though the property of the defaulter have been sold from his inability to give security, he may have his summary action, but any claim by a third party must be investigated in a regular suit under Section 9, Regulation VII. 1799. No. 348, 19th April 1822, ... I. 144

5. The defaulter executing a bond required by Section 15, Regulation V. 1812, fails to institute his suit within the prescribed period, and the demand is in consequence realized from him or his surety: the failure to institute the suit, though it subjects his property to re-attachment and sale, does not deprive him or his surety of the benefit of a summary suit, for the recovery of damages on account of injury sustained by the illicit sale of the property. No. 420, 2d June 1826, ... I. 177

6. A complaint preferred by a *zumeendar* or his *gomashteh* against *ryots* for breach of attachment of crops, shall be tried in a summary manner. No. 503, April 1829, ... I. 215

7. The moonsiff must proceed according to the prescribed rules to sell distrained property, though no *kuboolyut* be produced by the landholder: and if the landholder can shew in a summary suit, by his village accounts, or other probably true evidence, that the arrear deemed is due, he is entitled to a decree, though he may not have granted a *pottah* or received a *kuboolyut* from the defaulter. [*Act I. 1839, cancels the power of moonsiffs to act as agents for the sale of property attached for arrears of rent*] No. 574, 17th September 1830, ... I. 240

8. The moonsiff or other competent officer called on to sell property attached for rent, is entitled to be reimbursed expenses actually and necessarily incurred, though no sale should take place, and to realize the same, if not paid, by the sale of a sufficient portion of the attached property. [*See remark on the preceding.*] No. 714, C. C. 31st August, W. C. 5th October 1832, ... II. 55

DOCTORS, NATIVE.

See "Native Officers," No. 8.

DUKHILNAMEH.

1. *Dukhilnamehs* taken from individuals put in possession of houses, lands, &c., decreed in their favor, need not be written on stampt paper. No. 870, W. C. 21st February, C. C. 27th March, 1834, ... II. 159

DUSTBURDAREE.

See "Razeenameh," No. 5.

DWELLING HOUSES.

1. In reply to a commissioner's question whether magistrates can, under any circumstances, be permitted to transact the current business of their offices in their private dwellings, the Court deemed it sufficient to observe that, when sitting as a criminal judge, the magistrate must sit in the established court-house; and that they did not deem it necessary to enter upon the general question of the powers of a magistrate out of office. No. 645, 1st July 1831, ... II. 14

EAST INDIAN.

See "Assessors," No. 3.

EMBANKMENT.

1. If a person should construct a *bund* on his own land injurious to the property of another, the case would come rather under the cognizance of the civil than the criminal courts; but cases may arise in which the immediate interference of the magistrate would be proper to prevent either a breach of the peace or serious injury to the property of the complainant. No. 1091, C. C. 26th May, W. C. 28th April 1837, ... II. 309

EMBEZZLEMENT.

1. In cases of embezzlement, by native officers, it is essentially necessary that the judge, after a summary enquiry, pass a summary decree, adjudging the particular sum recoverable, according to the rule laid down in Regulation XVIII. 1817. No. 334, 29th December 1820, ... I. 136

2. The commitment of a native officer of the civil court for embezzlement, should be made by the magistrate and not by the judge. No. 518, 7th August 1829, ... I. 220

3. Regulation II. 1813, does not intend a repeal of the Mahomedan law relative to the offence of embezzlement, which being punishable under that law may clearly be committed for trial to the court of circuit. No. 543, 2d April 1830, ... I. 230

4. Though a summary enquiry into cases of embezzlement of the ministerial officers of the judge's court may be conducted by him under Section 7, Regulation XVIII. 1817, he cannot commit for that offence—that duty being left to the magistrate, to whom the judge should submit his proceedings, if grounds appear for subjecting the accused to a criminal trial. The magistrate will in such case use his own discretion in committing or releasing the accused, on a fair consideration of the evidence adduced. No. 691, 11th May 1838, ... II. 43

5. Regulation II. 1813, is still applicable to native officers employed in the commercial department entrusted with public money, and are not affected by the provisions of Regulation IX. 1829. No. 903, C. C. 3d October, W. C. 14th November 1834, ... II. 184

6. The case of a peon on the establishment of a Government functionary, making away with money entrusted to or collected by him, does not come within the meaning of Regulation II. 1813: such offence must be considered as a misdemeanor punishable under the general Regulations. No. 1200, C. C. 18th January, W. C. 1st February 1839, ... III. 44

7. Embezzlement is a bailable offence, and a person charged with that offence should have the option of giving bail and obtaining his enlargement from restraint. No. 1238, W. C. 19th July, C. C. 16th August 1839, ... III. 60

ENGLISH LANGUAGE.

1. An European defendant filing his answer in Persian or the vernacular language on the prescribed stamp, may file a translation thereof in English on unstamped paper. It is no part of the duty of the court to furnish the defendant with translations, he must procure a person duly qualified to interpret for him. No. 1035, C. and W. C. 12th August 1836, ... II. 273

2. The deposition of an European witness must be recorded in English, and a translation of it prepared by the court and annexed to it. No. 1035, C. & W. C. 27th January 1837, ... II. 274

3. It is competent to a commissioner or session judge to call upon a magistrate for an English report of any case that may be before him in his appellate capacity. No. 1071, W. C. 3d February, C. C. 3d March 1837, ... II. 296

ESCAPE OF CIVIL PRISONERS.

See "Civil Jails and Prisoners," Nos. 5, 6.

ESCAPE OF CONVICTS.

1. The escape of a convict not having been attended with violence, it was not competent to the magistrate to commit him to the court of circuit, though he was twice before convicted of that offence: the magistrate should himself dispose of the case. No. 501, 16th April 1829, ... I. 214

2. A prisoner, sentenced by the sessions court to fine and imprisonment, appealed to the Nizamut Adawlut, and was admitted to bail pending the appeal: he absconded and the bail was forfeited. Held that his property was not liable to forfeiture under the provisions of Regulation XI. 1796, and Section 26, Regulation XX. 1817, which are applicable only to persons *charged* with a crime, but not convicted; and that he must be proceeded against as an absconded convict. No. 1124, 29th December 1837, ... III. 1

3. The magistrate's proceedings regarding the escape of convicts should be submitted to the session judge under the provisions of Clause 1, Section 14, Regulation XVII. 1816; but, agreeably to Clause 2 of the same section, the escape of the convict should be reported to the superintendent of police, and measures for his apprehension taken by the magistrate in communication with that authority. No. 1162, C. and W. C. 3d August 1838, ... III. 20

4. The superintendent of police cannot exercise any authority over the guards of prisoners effecting their escape. No. 1162, C. and W. C. 3d August 1838, ... III. 20

5. A magistrate may sentence a prisoner, convicted of escaping, to one year's imprisonment in lieu of stripes in addition to the term he is authorized to award under Section 5, Regulation XII. 1818. No. 1184, C. C. 9th November, W. C. 12th October 1838, ... III. 33

6. A prisoner sentenced to imprisonment for escaping from jail is entitled to exemption from labor on payment of a fine, for the period of his confinement for that specific offence. No. 1215, C. C. 10th May, Govt. 1st August 1839, ... III. 52

7. A prisoner was convicted and sentenced by the sessions court, but the issue of the warrant was stayed pending a reference, regarding other prisoners in the same case, to the Nizamut Adawlut: before orders were received on the reference, the prisoner made his escape from jail. Held that he is punishable by the magistrate as a convict under Clause 1, Section 5, Regulation XII. 1818. No. 1246, C. C. 23d August, W. C. 6th December 1839, ... III. 63

EUROPEAN BRITISH SUBJECTS IN CIVIL MATTERS.

1. Although under the old law the civil courts could not give judgment for land in favor of an European who had not the sanction of Government to hold it, they were by a Circular Order directed, before passing judgment, to allow the European an opportunity of applying for the sanction of Government. No. 55, 28th November 1809, ... I. 13

2. The suits of European indigo planters against their ryots may be heard in the courts of the native commissioners. [*This Construction was superseded by Sec.* 3, *Reg. XXIII.* 1814, *but revived by Act XI.* 1836, *and Sec.* 7, *Reg. VI.* 1843.] No. 56, 12th December 1809, ... I. 13

3. 53 Geo. III., Cap. 155, Sec. 107, does not preclude the necessity of requiring an European British subject to enter into the bond to obey the judgment of the court, required by Section 2, Regulation XI. 1797, [Sec. 7, Reg. XVIII. 1803], though that required by Sec. 3, Reg. XXVIII. 1793, [Sec. 3, Reg. XVIII. 1803], rendering him amenable to the court, need not be taken. The bond must be written on stampt paper. [*Under the new Charter,* 3 *and* 4 *Will. IV. Cap.* 85, *the execution of the bond is not required.*] No. 174, 27th July 1814, ... I. 54

4. A bond executed in favor of an European British subject in Calcutta, where stamps are not used, is admissible in evidence, though unstamped. (*But see Reg. XII.* 1826.) No. 174, 27th July 1814, ... I. 54

5. Suits not cognizable by *moonsiffs* from one party being an European British subject, an European foreigner or American, should be referred to the register or *sudder ameen.* [*The prohibition against the cognizance of such suits by moonsiffs has been removed by Sec.* 7, *Act VI.* 1843.] No. 219, 17th August 1815, ... I. 71

6. The parents of an individual being Europeans, he must be considered to be an European, without reference to the place of his birth. No. 397, 29th July 1825, ... I. 166

7. An European British subject is not eligible to the office of manager of an estate attached under Sections 26 and 27, Regulation V. 1812. No. 449, 30th March 1827, ... I. 189

8. The bond prescribed by Section 2, Regulation XI. 1797, and Section 7, Regulation XVIII. 1803, should be written on the stamp required for other bonds taken by order of a court. It should be filed with the plaint: if not filed with it, the judge should nonsuit the plaintiff. [*Under the new Charter,* 3 *and* 4 *Will. IV. Cap.* 85, *the bond need not be executed,*] No. 493, 30th January 1829, ... I. 209

9. Under 53 Geo. III. Cap. 155, Section 107, an European British subject may sue and be sued for sums exceeding 500 rupees. No. 493, 30th January 1829, ... I. 209

10. The property of an European defendant is liable to attachment in the same manner as that of a native, on the courts being satisfied by sufficient proof that the defendant intends to abscond or withdraw himself, or remove his property, the detention of which is necessary for the satisfaction of eventual judgment. No. 588, 8th April 1831, ... I. 246

11. A decree passed against an European British subject must be enforced in the same manner as one against a native. No. 786, 3d May 1833, ... II. 98

12. Illegitimate children must be classed with their mothers and considered as British subjects,

European foreigners, or Americans, according as their mothers may be respectively British, foreign, European, or American. No. 806, W. C. 26th July, C. C. 6th September 1833,..... II. 113

13. Suits brought by or against an European manager of a native minor's estate, not being personal, must be received and tried by the Company's courts by which they would, from their amount, be cognizable, if the parties were natives. [*See subsequent rule in Act XI. 1836, and Act VI. 1843, which renders Europeans amenable to the Company's courts.*] No. 848, C. C. 13th December, W. C. 18th October, Government, 2d December 1833, II. 143

No. 967, C. C. 17th July 1835,..... II. 221

14. The decrees of the Calcutta court of requests are to be executed in the same manner as other decrees; the fact of both parties being Europeans making no difference. No. 932, C. C. 6th February 1835, ... II. 201

15. It is imperative on the zillah judge to take charge of the property of an European British subject dying within his jurisdiction, and, on a will being discovered, to deliver the same over to the party who may obtain probate thereof. The fact of there being a claimant, near relation, or respectable friend on the spot, willing to take charge of and be responsible for the property, will not exonerate the judge; he must retain charge until the registrar of the Supreme Court, to whom the circumstance should be immediately reported, or some other person, shall have obtained letters of administration, when the property is to be delivered over to the person to whom such letters may be granted. No. 983, W. C. 16th October, C. C. 13th November 1835,..... II. 231

16. An European defendant filing his answer in Persian or the vernacular language on the prescribed stamp may file a translation thereof in English on unstamped paper. It is no part of the duty of the court to furnish the defendant with translations, he must procure a person duly qualified to interpret for him. No. 1035, C. and W. C. 12th August 1836, ... II. 273

17. The deposition of an European witness must be recorded in English, and a translation of it prepared by the court and annexed to it. No. 1035, C. and W. C. 27th January 1837,..... II. 274

EUROPEAN BRITISH SUBJECTS IN CRIMINAL MATTERS.

1. Complaints of petty criminal offences against British subjects, such as do not warrant commitment for trial before the Supreme Court, were not meant to be included in the provisions contained in Section 2, Regulation II. 1796, and Section 19, Regulation VI. 1803, when the magistrate is not qualified to act as a justice of the peace. No. 20, 3d May 1806, ... I. 6

2. A magistrate, though a justice of the peace, cannot compel an European British subject, under Clause 3, Section 6, Regulation VII. 1819, to pay the wages of a servant. No. 340, 25th May 1821, ... I. 139

3. But though the European British subject, as master, cannot be proceeded against, the magistrate may proceed on his complaint against servants, or workmen, who may leave his service, refuse to work, &c., they being amenable to the magistrate's authority. No. 345, 20th July 1821, ... I. 142

4. The appeal from the conviction of an European British subject, by a magistrate in his capacity of justice of the peace, lies to the Supreme Court, and not to the court of circuit. [*Superseded by Act IV. 1843.*] No. 340, 25th May 1821,..... I. 139

5. European British subjects were not liable to the *chowkeydaree* assessment until they were made liable by Section 3, Regulation XV. 1837. No. 411, 23d December 1825, ... I. 172

6. The Court recorded their opinion that there appeared no reason why an European British subject, charged by a native with assault under 53 Geo. III. Cap. 155, Sec. 105, should not be allowed the privilege of appearing by attorney, which is enjoyed by natives. No. 570, 30th July 1830, ... I. 238

7. An assistant to a magistrate is not competent to take cognizance of complaints against European British subjects to the extent specified in 53 Geo. III. Cap. 155, Sec. 105, as the powers in question can only be exercised by a person possessing the full powers of magistrate. No. 595, 17th June 1831, I. 248

8. Magistrates are competent under 53 Geo. III. Cap. 155, Sec. 105, to punish European British subjects when convicted of assault, forcible entry, or other injury accompanied by force not amounting to felony. If two or more distinct offences of this nature be charged separately, the Court were aware of no reason why the sentences on conviction should not also be separate. The Court further observed that in such cases, confinement is authorized only in default of payment of fine: and that if, on investigation, the magistrate should be of opinion that the offender ought to be brought to trial before the Supreme Court, he should proceed in the usual manner, reporting the case for the information and orders of Government. No 632, 8th April 1831, ... II. 8

9. On the authority of the case of Mandeville in the printed reports of the Nizamut Adawlut, page 111, volume II., it was held that the party claiming exemption from the jurisdiction of the Company's courts, on the ground that he is an European, is bound to prove his plea. No. 759, 5th February 1833, ... II. 83

10. On requiring security or a recognizance to keep the peace from an European British subject, the magistrate is not restricted as to the amount, by the penalty he is authorized to levy from such European British subject by 53 Geo. III. Cap. 155,

Sec. 105, as in the event of a breach of the peace occurring, the magistrate cannot levy the penalty of the bond, it being expressly declared by Circular Order of Government to the commissioners of circuit under date 9th June 1830, that the only proceeding for the forfeiture of the penalty is in the Supreme Court. No. 826, 6th September 1833, ... II. 125

11. No appeal lies to the commissioner of circuit from the orders of a magistrate imposing a fine on an European British subject [*Superseded by Act IV.* 1843.] No 900, 12th September 1834, II. 183

12. The illegitimate son of an European British subject by a native mother can be tried by the local courts on a charge of adultery. No. 978, W. C., 11th September, C. C. 9th October 1835, ... II. 228

13. A married woman, the legitimate child of a British father, is not amenable to the local courts on a charge of adultery brought against her by her husband. No. 978, W. C. 11th September, C. C. 9th October 1835,..... II. 228

14. This construction regarding the power of courts to punish Europeans for contempt is superseded by Act XXX. 1841. No. 1098, C. C. 14th July, W. C. 4th August 1837, ... II. 313

15. The provisions of Section 4, Regulation VII. 1819, for compelling a person to provide for his wife and children, is not applicable to European British subjects, as defendants. No. 1141, C. and W. C. 23d March 1838, ... III. 10

16. Held that Sections 33 and 35, Act XVII. 1837, [for punishing certain offences against the post office laws,] are not applicable to European British subjects, resident in the mofussil, as those persons have not by any act of the legislature been made amenable to the local authorities in the administration of the penal enactments of the Government of India. No. 1296, W. C. 21st May, C. C. 18th June 1841,..... III. 79

EUROPEAN FOREIGNERS.

See "European British Subjects," *passim.*

EUROPEAN PUBLIC OFFICERS.

1. Magistrates and other public functionaries who were not liable to civil actions in the country courts, for damages on account of alleged injuries committed in their official capacity, before the passing of Act XI. 1836, are not rendered liable by that Act. No. 1051, Govt. 10th October 1836, ... II. 283

2. A commissioner appointed under Act XXVI. 1839, to enquire into charges against public officers cannot legally act until he has subscribed the oath prescribed by Section 11 of the Act, before an officer authorized to administer the same. No. 1289, W. C. 28th November, C. C. 10th December 1840, III. 77

EVASION OF PROCESS.

1. A magistrate cannot punish the evasion of his process of arrest as a contempt of court; he must proceed according to the rule laid down in Section 4, Regulation XI. 1796, and Section 26, Regulation XX. 1817. No. 619, 21st January 1831,... II. 1

See "Magistrate's orders, appeals from and revision of," No. 29.

EXCLUSION FROM PUBLIC EMPLOY.

1. A magistrate is not empowered to declare that an officer, proved guilty of wilful neglect in allowing convicts to escape, shall never be employed in the zillah in any capacity whatever. No. 157, 28th April 1814,..... I. 48

2. A commissioner has no power to declare any person excluded from future employ in his division. No. 1065, C. C. 16th December 1836, W. C. 6th January 1837, ... II. 292

EXECUTION OF DECREES.

I. Limitation of time for execution.

1. A decree not enforced for 12 years and upwards may be executed without a fresh suit, provided good and sufficient cause be shewn for the delay, and the opposite party offer no valid objections. No. 3, 8th April 1802, ... I. 1

2. A decree not executed when it was passed, may be executed on application being made within 12 years from the date thereof, after calling on the opposite party to shew cause why it should not be executed. If the decree-holder omit for 12 years to make application for execution, his application should not be admitted, unless he establish to the satisfaction of the court, good and sufficient cause for the delay. No. 136, 28th October 1813,..... I. 40

3. A notice, prior to execution, should be issued in all cases in which a year has elapsed since the date of the decree, or execution may be sued out against the heirs of the original parties, as prescribed by Clause 8, Section 15, Regulation XXVI. 1814, when any doubt may exist as to the propriety or otherwise of executing the decree. [Section 7, Regulation VII. 1825, declares that the notice *shall invariably* be issued in such cases]. No. 238, 16th February 1816, ...I. 79

4. In a suit to cause execution of a moonsiff's decree, the cause of action must be considered to have arisen from the expiration of one year from the date of the decree, and such suit instituted 14 years after the date of the decree would be inadmissible, unless good and sufficient cause were shewn for the delay. No. 495, 27th February 1829, ... I. 211

5. Execution of a summary decree may be taken out within 12 years from the date of such decree.

No. 1266, C. C. 9th August, W. C. 6th September 1839, ... II. 70

6. Construction 136, which requires good and sufficient cause to be shewn for the execution of decrees after 12 years, must be the rule of guidance in cases of decrees in favor of Government: the terms of Section 2, Regulation II. 1805, declaring the claims of Government cognizable by the courts, if preferred within 60 years, being considered as having reference to *claims preferred* and not to *claims adjudged*. No. 1348, W. C. 1st July, C. C. 22d July 1842, ... III. 93

II. What may and what may not be sold in execution of decrees.

1. The land of the defaulter other than that for which the balance is due cannot be sold in execution of a summary decree: but his interest in that for which he is in balance, may be sold, as well as his chattels. No. 4, 11th January 1803, ... I. 2

2. When a summary judgment has been given, the defendant's *talook* or other transferable tenure, for the rent of which judgment has been passed, may be sold at the conclusion of the current year. But the judge is not authorized to direct the collector to sell on the mere allegation of a balance due, without any enquiry. No. 128, 8th July 1813, ... I. 36

3. The *talook* or other transferable tenure cannot be sold if the defaulter tender the balance adjudged to be due. No. 130, 15th July 1813, I. 37

4. Real property cannot be sold in execution of a summary decree. No. 496, 13th March 1829, ... I. 211

5. A decree against a resident of Calcutta may be executed against any property belonging to him that may be found beyond the limits of Calcutta. [See Act XXIII. 1840.] No. 721, C. C. 5th October, W. C. 9th November 1832, ... II. 58

6. The judge is competent, *with the consent of the parties*, instead of selling the estate of the debtor, in satisfaction of the debt, to cause it to be attached until the amount due be realized from the proceeds. Such attachment must be made through the collector. No. 752, W. C. 21st December 1832, C. C. 1st February, Government 8th March 1833, ... II. 77

7. Pensions granted by Government are not liable to attachment in satisfaction of decrees of court. No. 788, C. C. 3d May 1833, ... II. 99

8. The salaries of public officers may be attached in execution of a decree, though a pension cannot. [*See Cir. Or. Sudder Dewanny Adawlut, 20th January* 1843.] No. 827, W. C. 9th August, C. C. 6th September 1833, ... II. 126

9. Mortgaged property may be sold in execution of a decree obtained by other than the mortgagee, with a reservation, however, of his rights and interests. No. 856, C. C. 24th January 1834, ... II. 148

10. The right and interest of a *jotedar* in his *jote* may be sold in execution of a decree. No. 890, C. C. 11th July, W. C. 5th September 1834, II. 177

11. The salary of a military officer cannot be attached in execution of a decree. No. 902, W. C. 26th September, C. C. 24th October 1834, ... II. 183

12. Nor can the pay of a sepoy: though the creditor may proceed against the person and property of the sepoy as in any other case. No. 1175, C. C. 27th September, W. C. 31st August 1838, ... III. 30

13. A moonsiff is competent to sell instruments of husbandry in execution of a decree. No. 962, W. C. 26th June, C. C. 31st July 1835, ... II. 219

14. *Wuqf* property [in the present instance appropriated for the support of a *musjid*] cannot be alienated or sold in execution of a decree. No. 1166, C. C. 17th August, W. C. 20th July 1838, ... II. 25

15. The crops on *chowkeydaree* lands may be sold in execution of decrees. No. 1212, W. C. 19th April, C. C. 12th July 1839, ... III. 50

16. If no purchaser be forthcoming for a house as it stands, it is not competent to the court to detach from the building any of the materials, and sell them separately. The same applies to trees, which cannot be cut down till they have been sold. No. 1227, W. C. 21st June, C. C. 2d August 1839, ... III. 56

17. Unproved claims of B against C may be considered as assets available in execution of A's decree against B, and may be sold by auction, when the auction purchaser would acquire the right of demanding payment from C, or, in the event of non-payment, suing him for the recovery of the debt. No. 1248, W. C. 6th September 1839, C. C. 3d January 1840, ... III. 64

18. The same principle applies to claims in respect to which a decree has been passed, the auction purchaser possessing in this instance the right to sue out execution in the same manner as the original decree-holder, W. C. 6th September 1839, C. C. 3d January 1840, ... III. 64

III. Execution stayed on Security.

1. There is a discretion vested in the appellate court to direct the lower court to stay execution of a decree pending appeal, and even to restore the appellant to possession, if the respondent should have been put in possession in execution of the lower court's decree [See Construction 1077]. No. 90, 12th September 1811, ... I. 21

2. Execution of decrees for money, or moveable property, *must be stayed* during appeal, provided the appellant give good and sufficient security for performing the decision that may be passed. No. 106, 10th July 1812, ... I. 28

No. 284, 29th December 1817, ... I. 105

3. As the security required to stay execution of decrees appealed from, is exclusive of costs, payment of costs should invariably be enforced, though execution may be stayed in other respects. No. 110, 3d September 1812, ... I. 29

4. The execution of a decree of a zillah judge for the forfeiture of an estate to Government for the offence specified in Section 22, Regulation VI 1795, and Section 22, Regulation XXVIII. 1803, may be stayed during an appeal to the provincial court on security under Section 11, Regulation XIII. 1808. No. 198, 8th March 1815, ... I. 62

5. The word "empowered" in Clause 5, Section 46, Regulation XXIII. 1814, is not considered as modifying the general rule in Section 12, Regulation XIII. 1808, [that money decrees are to be stayed on security pending appeal,] which still is in full force. No. 272, 9th April 1817,..... I. 97

No. 284, 29th December 1817, ... I. 105

6. Clauses 4 and 6, Section 45, Regulation XXIII. 1814, appear to apply the rule of Section 12, Regulation XIII. 1808, to moonsiffs' decrees. No. 284, 29th December 1817, ... I. 105

7. In cases appealable under the regulations, the decree holder should not be put in possession without security, until the period of appeal has elapsed. The decree however may be executed on tender of sufficient security. *(It was ruled by Construction* 1077, *that this Construction has not been superseded by Clause* 3, *Section* 16, *Regulation V.* 1831.) No. 536, 1st January 1830, ... I. 227

8. The court stayed the execution of a decree, which declared the appellants to be slaves, without demanding security from them. No. 550, 7th May 1830, I 232

9. It rests with the judge, to whom the appeal is preferred, to order or stay execution of the decree; and not to the register [or principal sudder ameen] to whom the judge refers the appeal for trial. No. 646, 8th July 1831, ... II. 14

10. The zillah judge cannot stay the execution of a summary decree of the collector. No. 738, W. C. 16th November, C. C. 7th December 1832, II. 67

11. The payment of fees in pauper as well as in other cases cannot be stayed on the ground of an appeal having been preferred from the first decision. No. 776, W. C. 4th April, C. C. 3d May 1833, II. 91

12. All decisions of zillah judges decreeing forfeiture of land, in cases of resistance or evasion of process, are appealable to the Sudder Dewanny Adawlut and without reference to the annual produce, *jumma*, or fine; and execution must be stayed until the expiration of the period prescribed for appealing therefrom. No. 780, W. C. 12th April, C. C. 10th May 1833, ... II. 94

13. The officer in charge of the judge's court is competent to stay execution of a decree appealed from—taking security if necessary. No. 998, C. C. 8th January, W. C. 5th February 1836, ... II. 243

No. 1038, C. C. 19th August, W. C. 16th September 1836, ... II. 276

14. The assignment of the appellant of his own lands as security to stay execution pending appeal is inadmissible. No. 1024, C. C. 8th July, W. C. 12th August 1836, ... II. 265

15. Construction 90 is not considered as precluding the lower courts from exercising a discretion to delay, for a reasonable time, the execution of their own orders for giving possession to a respondent, until the receipt of instructions from the appellate court. No. 1077, W. C. 10th March, C. C. 25th March 1837, ... II. 299

IV. Sale of Land or other Property in execution.

1. No sale of land, whether *lakheraje* or *mal*, can be made otherwise than through the Board of Revenue and collector. *(Section* 2, *Regulation VII.* 1825, *authorizes the courts to sell gardens, orchards, and small portions of lakheraje land).* No. 71, 29th November 1810, ... I. 16

2. All sales of land in execution of summary decrees must be made through the revenue authorities. No 129, 15th July 1813,..... ..... I. 37

3. The sale of *putnee* and *dur putnee talooks* in execution of decrees must be made by the collector. No. 349, 26th April 1822, ... I. 144

4. The rule contained in Section 3, Regulation VII. 1835, as regards the issue of notice of sale of land, is applicable to sales conducted by the officers of the courts: but Section 12, Regulation XLV. 1793, is still in force and applicable to sales by collectors. No. 601, 30th September 1831, ... I. 249

5. As the sale of *putnee* tenures in execution of decrees must be conducted by the collector, the report required by Section 2, Regulation XIV. 1793, is to be made to the commissioner. No. 897, 5th September 1831,..... II. 182

6. The sale of *shikumee* and other transferable talooks, in execution of decrees, should be conducted by the collector in the same manner as that of *putnee* talooks. No. 921, C. C. 12th December 1834, C. C. 23d January 1835,..... II. 195

7. Houses, gardens, orchards, and small portions of rent-free land should be sold in the same manner as personal property by the civil courts; and all land paying revenue to Government, however small, not being orchards, or gardens, through the revenue authorities. No. 933, C. C. 20th February, W. C. 20th March 1835, ... II. 201

V. Payment of purchase money and distribution of Assets.

1. The rule contained in the Circular Order, Sudder Dewanny Adawlut, 6th June 1828, for retaining the purchase money in deposit until the period for preferring objections to the sale has elapsed and possession been given to the purchaser, does not apply to the case of a purchaser, who refuses to take possession when tendered. In such case the money should be paid to the decree holder, and the purchaser warned that he must abide the consequences of his refusal. No. 532, 4th December 1829, ... I. 225

2. If the purchaser refuse to pay the purchase money and take possession, and the property on a resale be sold for a smaller sum, the difference must be realized from the purchaser by the process prescribed for enforcing a decree of court. No. 554, 28th May 1830, ... I. 233

3. If the proceeds of the sale of the property of a pauper plaintiff whose suit was dismissed with costs, be insufficient to satisfy all demands, the court, after paying the pleader's fees, should exercise its discretion to satisfy the other demands, leaving the party dissatisfied with his order to appeal. No. 621, 21st January 1831, ... II. 3

4. Personal property sold in execution of a decree should be paid for before delivery. If the *nazir* or other officer conducting the sale, deliver the property, and the purchaser refuse to pay the purchase money, the former will be compelled to make good the price, and will have to recover it from the purchaser in the regular course of law. No. 787, 3d May 1833, II. 98

5. Inadequacy of price is not a legal ground for annulling an auction sale in execution of a decree. No. 829, W. C. 20th September, C. C. 18th October 1833, ... II. 127

No. 928, C. C. 16th January 1835, ... II. 199

6. Mere priority of date, gives no preference to a decree. All decrees under which process of attachment has been issued, provided they are dated previous to the distribution of the deposits, entitle the holders to share in proportion to the amount of their claims; with an exception of cases in which a *bonâ fide* mortgage of the deposit may exist in favor of any particular claim. No. 935, W. C. 31st July 1834, C. C. 22d February 1835, ... II. 202

7. All decrees under which process of attachment has been issued, provided they are dated previous to distribution, entitle the holders to share in proportion to their claims, [exceptions being allowed in cases of *bonâ fide* mortgage,] in preference to claimants under decrees in which no such process has been issued. No. 1056, C. and W. C., 21st October 1836, II. 287

8. A decree holder purchasing property sold in satisfaction of his decree, may be permitted to give his receipt for the amount of his claim in payment of so much of the purchase money: provided that the arrangement do not interfere with equal claims of other parties, and that, as respects delivery of possession of the property sold, the sale rules be observed in regard to him, as would be applied to other purchasers. No. 1187, C. and W. C., 30th November 1838, III. 34

9. A decree holder purchasing his debtor's property at a public sale by the collector for a higher sum than the amount of his decree, must deposit 15 per cent. on the whole amount of the purchase money, or the balance in full; as, should the balance not be paid, the sale falls to the ground, and the purchaser forfeits the purchase money or the sum total paid by him. No. 1350, C. C. 15th July, W. C. 5th August 1842, ... III. 93

VI. Confinement of Debtors in execution of decrees.

1. An application is required for the confinement of a party under civil process; and in the first instance, after demand made, the process should be executed upon the property of the person from whom the amount is due, and the property of his surety. No. 21, 25th July 1806, ... I. 6

2. When a debtor confined in execution has executed a *kistbundee* in court, it may be enforced; and if the party or his surety allege, that any payment has been made, he should be allowed to prove it. No. 44, 7th December 1808, ... I. 11

3. The rule in Clause 7, Section 45, Regulation XXIII. 1814, "that no one shall be liable to "be imprisoned in satisfaction of a decree for any "sum not exceeding 64 rupees beyond the period of "six months," does not apply to a person confined for arrears of *abearee* tax due to Government. No. 302, 28th May 1819, ... I. 121

4. A sudder ameen executing a decree, has no power to order the imprisonment of a debtor, or of a person guilty of resistance of process; but must refer the matter for the orders of the judge. [See Section 7, Regulation VII. 1832.] No. 451, 30th March 1827, ... I. 190

5. It is incumbent on the civil courts to release a debtor, with the consent of the creditor, on the execution by the former of a *kistbundee*. No. 569, 23d July 1830, ... I. 238

6. The execution of a *kistbundee* for a larger sum than 64 rupees, including interest and costs, will not deprive the debtor of his right to be released under Section 45, Regulation XXIII. 1814, after he has been confined for six months in execution of a decree for a sum not exceeding 64 rupees. No. 569, 23d July 1830, ... I. 123

7. A principal sudder ameen cannot confine a debtor without the sanction of the judge. No. 947, W. C. 1st May, C. C. 22d May 1835, ... II. 209

8. Though the rule contained in Clause 7, Section 45, Regulation XXIII. 1814, providing that no one shall be confined for a period exceeding six months, for a sum not exceeding 64 rupees, applies only to debtors confined under decrees of court, it is competent to the judge to use his discretion in releasing a person confined in default of payment of fine; due regard being had to the circumstances under which the fine was imposed. No. 964, W. C. 10th July, C. C. 31st July 1835, ... II. 220

9. The judge who issued the process of arrest can alone order the release of a prisoner, and not the judge in whose district he may have been arrested. No 1000, W. C. 5th February, C. C. 11th March 1836, ... II. 245

10. A debtor having been arrested was released after having been kept seven days in custody, because his subsistence money was not deposited, held that as he had not been confined in jail, this circumstance

would not bar his further arrest. No. 1090, C. C. 19th May, W. C. 2d June 1837, ... II. 308

VII. Objections to execution of decrees, and Appeals from Orders regarding Sales.

1. A judge executing the decree of a provincial court is at liberty to investigate and decide the claims of a third party to the property attached, or may refer the matter for the orders of the provincial court. [*Obsolete.*] No. 308, 19th November 1819, ... I. 125

2. The appeal from the order of a register fixed at other than the sudder station, in execution of a moonsiff's decree, and special appeals from the orders of a sudder ameen in such cases, lie to the zillah judge, and not to the provincial court. [*Obsolete.*] No. 355, 26th September 1823, ... I. 147

3. The Sudder Dewanny Adawlut held that a judge might uphold a lease granted by the court of wards as guardians of the estate of an alleged adopted son, though the adoption had been set aside by a decree of court, supposing there to be no collusion. No. 540, 26th February 1830,..... I. 229

4. The circumstance of an estate being recorded in the collector's records in the name of another person than him against whom execution is prayed, is not sufficient to warrant the collector to decline to bring the same to sale, nor is the plea that the collector's office does not furnish sufficient information, or that no division can be made of the attached talooks, for the collector is bound to obtain the required information and make the requisite division, or satisfy the court that it cannot be done. No. 648, 2d July 1831,..... II. 15

5. Claims to property about to be sold by the collector in execution of decrees, are solely cognizable by the court ordering the sale. When such are preferred to the collector, he should forward them to the court for decision, *staying his proceedings until the final orders of the court are received. (The words in italics were rescinded by the C. O. S. D. A. 4th September* 1840,..... II. 104

6. A single judge of the Sudder Dewanny Adawlut is competent to alter or reverse the orders of the zillah judge in execution of the zillah judge's decree; such proceeding not being considered to come within the provisions of Clause 4, Section 2, Regulation IX. 1831. No. 804, W. C. 19th July, C. C. 16th August 1833, ... II. 110

7. The expression "or objections made to the sale of property within the period of the proclamation," in the Circular Order, Sudder Dewanny Adawlut, 19th July 1833, is considered equally applicable to defendants as to other individuals who have objections to advance to the disposal of property advertised for sale by public auction in satisfaction of a decree. No. 844, W. C. 22d November, C. C. 6th December 1833, ... II. 142

8. The Circular Order, Sudder Dewanny Adawlut, 19th July 1833, does not allow a new postponement on the rejection of every petition objecting thereto, but merely prohibits the order for sale from being carried into execution for three months, i. e. until the expiration of the period prescribed for appealing, with a view to enable the parties dissatisfied with it to prefer their appeal within that period. No. 877, C. C. 27th March 1834,..... II. 166

9. No other authority than the court which issued the process can release an individual from the process of arrest, *or his property from attachment and sale.* [*By Circular Order, Sudder Dewanny Adawlut, 8th May* 1840, *it was ruled that the judge of the district in which the property is situate, and not the judge ordering the sale, should pass the necessary orders regarding the attachment and sale thereof.*] No. 1000, W. C. 5th February, C. C. 11th March 1836,..... II. 245

10. When claims or objections are preferred to the judge *before the sale* and rejected, the sale must be postponed for three months from the date of the judge's order. When objections are preferred *after the sale,* and rejected, and the sale confirmed, the purchase money must be kept in deposit for three months from the date of the judge's order rejecting the petition and confirming the sale. If no claims are preferred before the sale, it may take place in thirty days; and if after the sale no objections are preferred within thirty days, the purchase money may in like manner be paid to the decree holder at the expiration of that period. No. 1027, C. C. 29th July, W. C. 15th July 1836, ... II. 267

11. Courts executing decrees are competent summarily to set aside leases which have been shewn to be fraudulent, leaving the party dissatisfied to appeal, or institute a regular suit to recover possession of his alleged rights. No. 1059, 2d December 1836, II. 288

12. Miscellaneous orders passed in execution of decrees carrying into effect the original intention of the court, must be considered as final, and not constituting a new ground of action. No. 1129, W. and C. C. 9th February 1838, ... III. 4

13. Appeals from orders passed by principal sudder ameens under Clause 6, Section 3, Regulation VII. 1825, in execution of their own decrees in suits above 5000 rupees, lie direct to the Sudder Dewanny Adawlut. No. 1148, W. C. 27th April, C. C. 11th May 1838,..... III. 12

14. A decree having been obtained by A against B, the latter, to evade execution thereof, got his relation C to file a fictitious suit, on which he, three days after, put in an *ikbal-davee,* acknowledging the fictitious debt, and pledging the whole of his property in satisfaction of it; on the strength of which a decree was the same day passed in favor of C. Held that the aggrieved decree holder should be referred to a regular suit against the colluding parties for any damages he might have sustained by their fraudulent

proceedings, pending the issue of which the whole of the property in question might be attached and the interest of the decree holder protected. No. 1299, C. C. 4th June, W. C. 25th June 1841, ... III. 80

VIII. Power and duty of Collectors in execution of decrees.

See "Collectors," Nos. 12, 16, 17, 19, 20, 21, 25, 40, 41.

IX. Power and duty of Native Judges in execution of decrees.

See "Moonsiffs, V." passim.
" "Principal Sudder Ameens," Nos. 2, 21.
" "Sudder Ameens," Nos. 6, 24.

X. Interest and Mesne Profits.

See "Interest and Mesne Profits," passim.

XI. Miscellaneous subjects.

1. Applications for the execution of awards of private arbitrators are to be received and enforced under the rules applicable to summary process. No. 225, 31st October 1815, ... I. 74

2. When a person has obtained a decree against a debtor,—if no property of the latter be forthcoming, he has an equitable right to attach property receivable under a decree passed in favor of the debtor, and to cause execution, unless good and sufficient cause against the enforcement be shewn by the party against whom such judgment has been passed. No. 293, 9th July 1818,..... ..... I. 115

3. The courts are not required to execute decrees of the Supreme Court, unless a writ directing execution be issued by that Court. No. 567, 23d July 1830, ... I. 237

4. No decree can be executed against a third person, who was not a party thereto. No. 744, 21st December 1832, ... II. 70

5. A decree of the Calcutta court of requests is to be executed by the judge of the 24-Pergunnahs in the same manner as decrees of other courts: and the state of the case is not altered by the fact of both parties being Europeans. No. 932, 6th February 1835, ... II. 201

6. A obtained a decree awarding him possession of a village wrongfully included by B in his talook. B appealed, but his talook having been sold for public revenue, he neglected to carry on his appeal, which was dismissed. B having subsequently obtained a reversal of the public sale, it was held that A might obtain possession of the village in execution of his decree without a new suit. No. 999, C. C. 8th January, W. C. 5th February 1836, II. 244

7. The decisions of His Majesty in Council are executed through the judges of the districts in which the cause of action arose, who are to be guided by the same rules as are prescribed for the execution of other decrees. The party who has obtained the decree, having been kept out of his land pending the appeal, will be intitled to mesne profits without instituting a new suit. No. 1066, W. C. 13th January, C. C. 17th February 1837, ... II. 293

8. When the holder of the decree of a foreign court, or of a court in an extra regulation district, wishes to execute it, against property in one of the regulation districts, he must institute a suit in the court of that district, on the decree passed in his favor in the other court. No 1133, 16th February 1838, ... III. 5

9. On the transfer of a decree from the decree holder A, to another B, it is essential to the recognition of such a transfer by a civil court, that A the transferring party should certify, in person, or by *mokhtar* appointed for that special purpose, either verbally or by petition, his having made the transfer to B, whose name should then be inserted in the place of that of the original decree holder in the execution of decree process. No. 1341, W. C. 20th May, C. C. 17th June 1842, ... III. 91

EXECUTION OF SENTENCES OF MILITARY COURTS.

1. A magistrate cannot proceed against a witness who refuses to be sworn before a court martial under the provisions of Regulation IV. 1820. *(Superseded by Section 6, Act XI. 1841.)* No. 401, 18th August 1825, ... I. 168

EXEMPTION FROM ARREST.

See "Arrest," Nos. 2, 3, 4, 6, 7.

EXEMPTION FROM LABOR.

1. Prisoners detained on a requisition of security for good conduct cannot be exempted from labor by the payment of a fine. No. 881, C C. 18th April, W. C. 16th May 1834, ... II. 169

2. Labor is commutable to a fine on a conviction of knowingly issuing forged documents, &c. No. 899, W. C. 12th September, C. C. 3d October 1834, II. 182

3. The power vested in a magistrate by Section 3, Regulation VIII. 1828, of awarding labor to a prisoner convicted of affray unattended with aggravating circumstances, during the original term of imprisonment, must be considered to extend equally to the further period of imprisonment which the prisoner may be required to undergo, in default of paying the fine which the magistrate may think fit to impose; and the labor in both cases is commutable to a fine. No. 972, W. C. 7th August, C. C. 4th September 1835, ... II. 224

4. On a conviction of privity to burglary, labor is commutable to a fine. No. 1178, C. C. 7th September, W. C. 5th October 1838,..... III. 30

5. A prisoner sentenced to imprisonment for escaping from jail is entitled to exemption from labor, on payment of a fine, for the period of his confinement for that specific offence. No. 1215, C. C. 10th May, Government 1st August 1839, ... III. 52

6. In cases in which a magistrate may sentence to a term of imprisonment with labor and a fine, commutable to a further period of imprisonment, it is competent to him to make the labor redeemable by a fine for both periods. If labor was not awarded for the first period, it would not of course be awarded for the second. No. 1264, W. C. 6th December 1839, C. C. 3d January 1840, ... III. 69

EXHIBITS.

See "Stamps, V." *passim.*

EXPARTE DECISIONS.

See "Practice," Nos. 1, 4.

FALSE OR FICTITIOUS NAMES.

See "Benamee Purchasers," No. 1.
"Conduct of Trials," No. 12.

FERRIES.

1. A person holding a farm of a public ferry is not authorized to underlet it without the sanction of the magistrate; a summary suit by such farmer against his *kutkeenadar* would not be cognizable by the collector under Regulation VIII. 1831 In such cases, mode of proceeding is laid in Section 10, Regulation VI. 1819. No. 713, 24th August 1832, II. 55

2. Leases and counterparts [*pottahs* and *kubooluts*] granted to and taken from farmers of ferries need not be written on stampt paper. No. 1111, C. C. 27th October, W. C. 22d September 1837,..... II. 336

3. The magistrates' acts in the management of ferries are subject to the control of the superintendant of police, and it is not competent to the session judge to receive appeals from the magistrates' orders in such matters. No. 1144, C. and W. C. 6th April 1838,..... III. 11

4. Held that the plying of boats by parties contrary to order in the vicinity of a Government ferry, is a misdemeanor punishable by a magistrate under the general powers vested in him by Section 19, Regulation IX. 1807. No. 1305, C. C. 16th July, W. C. 20th August 1841, ... III. 82

FINES.

1. A magistrate cannot fine a collector for disobeying his orders: the rule in Section 36, Regulation XIV. 1793 and corresponding enactments being restricted in its operation to decrees and orders of the civil courts of judicature. No. 364, 23d April 1824, ... I. 151

No 414, 17th March 1826,..... I. 173

2. The fine for illicitly cultivating salt churs, must be commuted, if not paid, to a period of imprisonment. No. 388, 3d June 1825, ... I. 160

3. It is competent to a session judge to fine an officer of the magistrate's establishment guilty of negligence or disrespect while in attendance at the sessions. No. 882, C. C. 18th April, W. C. 16th May 1834, ... II. 169

4. The power of a session judge to fine is unrestricted as to amount, except when it is defined by a specific regulation [as in case of Dhurna by Regulation VII. 1820.] No. 959, 19th July 1835, ... II. 217

5. The judge is competent to use his discretion in releasing a person confined by order of a civil court in default of payment of a fine, due regard being had to the circumstances under which the fine was imposed. No. 964, W. C. 10th July, C. C. 31st July 1835, ... II 220

6. When the civil judge has confirmed or modified the order of a native judge imposing a fine, he may refer his order to the native judge for execution under the rules prescribed for the execution of decrees. [*But see Circular Order, Sudder Dewanny Adawlut, 16th September* 1842, *and Sections* 3 *and* 4 *Act VI. of* 1843.] No. 1020, C. C. 1st July, W. C 22d July 1836,..... ... II. 263

7. If a collector on being required by the judge under Section 15, Regulation VIII. 1831, to transfer the record of a case pending before him, refuse to do so, the judge is competent to proceed according to Section 36, Regulation XIV. 1793. No 1094, C. C. 23d June, W. C. 14th August 1837, ... II. 311

8. Fines imposed for frivolous, vexatious, or groundless suits are leviable by the commitment of the person fined to close custody until the fine is paid; but in cases of litigious appeals, the amount may be realized under the rules applicable to the execution of decrees of court. No. 1096, C. and W. C. 7th July 1837, ... II. 312

9. It is not optional to the civil courts to remit the fine declared by Section 18, Regulation X. 1829, to attach to parties filing papers contrary to the provisions of that enactment No. 1120, C. C. 15th December 1837, W. C. 12th January 1838,... II. 332

10. The fines imposed for a breach of the salt laws are commutable to a term of imprisonment. If the fine be paid before the defendant is committed to jail, the case is concluded: if forthcoming after confinement, the case is also disposed of and the prisoner must be released: if the fine be not paid, the person fined must undergo the prescribed period of imprisonment in commutation, and the levy of the fine is then barred, that is, the fine is not demandable after the imprisonment has been undergone and the party

released. No. 1135, C. and W. C. 2d March 1838,..... III. 7

11. A zillah judge cannot impose a fine on an appellant under Section 3, Regulation XIII. 1796, in a miscellaneous case, that rule not being applicable to such appeal. No. 1138, C and W. C. 16th March 1838,..... III. 8

12. The fine authorized by Section 21, Regulation XII. 1807, should be commuted, if not paid, to imprisonment for a limited term: and in the absence of the zumeendar, the actual manager of the estate should be proceeded against, in default of compliance with the requisitions of the law cited. No. 1150, C. C. 27th April, W. C 11th May 1838,.....III. 14

13. A magistrate cannot fine *muhajons* or *shroffs* for demanding illegal *batta* on Company's rupees. No. 1156, 9th June 1838,..... III. 17

14. Police officers are not authorized to levy fines on account of cattle trespassing. No. 1176, C. C. 21st September, W. C. 31st August 1838,.....III. 31

15. It is considered objectionable to allow the native judges to impose fines on collectors for not conforming to their orders. When their orders are not carried into effect, they should report the circumstances of the case to the judge, leaving him to take such steps in the matter as he may deem proper consistently with the Regulations. No. 1193, W. and C. C. 21st December 1838,..... III. 40

16 A bidder at a public sale who has been fined by a collector, cannot institute a regular suit against that authority to obtain a return of the fine, supposing it to have been levied by distress or otherwise. No. 1201, C. C. 15th February, W. C. 8th March 1839,..... III. 44

17. A magistrate has no power to mitigate the fine of 50 rupees for the offences against the post office described in Sections 9 and 10, Act XVII. 1837; and the fine, if not paid, must be levied under the rules of Act II. 1839. No. 1204, W. C. 15th March, C. C. 1st April 1839, ... III. 45

18. The fine imposed under the provisions of Section 25, Regulation IV. 1793, may be levied by the same rules as are applicable to the execution of decrees of court, i. e. by the sale of the property of the individual upon whom the fine was imposed, or by the imprisonment of the individual. No. 1214, C. C. 3d May, W. C. 24th May 1839,..... III. 52

19. It is imperative on a magistrate under the provisions of Act XI. 1835, [regarding printing presses,] to sentence any person convicted of a breach of that law to imprisonment in addition to a fine. The fine is not commutable to a further period of imprisonment, but must be levied according to Act II. 1839. No. 1325, C. C. 11th February, W. C. 11th March 1839, ...III. 344

FISHERIES.

See "Dispossession or disputed possession, summary process of the criminal courts in cases of," No. 14.

FOREIGN COURTS, DECREES OF

See "Execution of Decrees, XI." No. 8.

FOREIGNERS, EUROPEAN.

See "European British Subjects," *passim.*

FOREIGNERS, NATIVE.

See "Foreign territories, crimes committed in," *passim.*

FOREIGN TERRITORIES, CRIMES COMMITTED IN.

1. A native, born in Seharunpore, had resided for the last eight or nine years in the Lucknow territory; being charged with assisting in resisting our police in the Lucknow territories, he was considered to be a native of the second class, described in Regulation VIII. 1813. No. 703, W. C. 8th June, C. C. 6th July 1832, ... II. 48

2. If persons, not being native British subjects, come from an independant state into the British territories and, having committed robbery or other heinous crime, escape beyond the boundary, such persons, if given up by the foreign state, can be tried by our courts. No. 533, 18th December 1829, ... I. 226

3. If a native subject of the British Government, accused of a crime committed beyond the Company's territory, make his escape beyond the boundary and be delivered up, a reference to Government is necessary before he can be tried. No. 533, 18th December 1829,.....I 226

4. If a person, not a British subject, accused of a crime committed within the Company's territories, be seized within those territories, he can be tried without reference to Government. No. 533, 18th December 1829, ... I. 226

5. Foreigners who entered the British territory, and carried off a British subject, may be tried by the magistrate of the district in which the crime was committed. An affray occurred in the foreign territory in consequence of this abduction: such of the party engaged who were British subjects, would with the permission of Government be triable by our courts; the foreigners would be subject only to the laws of the state where the offence was committed. No. 926, W. C. 16th January, C. C. 31st January 1835, ... II. 197

6. A magistrate is competent to apprehend the subject of a foreign state, charged with murder or robbery, who may take refuge in the British territory. No. 929, 20th January 1835, ... II. 199

FOREST, RIGHT OF, OR 'BUNKER.'

See "Dispossession or disputed possession, summary process in the criminal courts in cases of," No. 21.

FORFEITURE OF LAND AND FINES FOR RESISTANCE OR EVASION OF PROCESS.

1. Section 12, Regulation IV. 1793, and Section 13, Regulation III. 1803, do not authorize or intend a sequestration of land until the judgment of forfeiture is confirmed. No. 2, 2d May 1799,..... I. 1

2. The Nizamut Adawlut authorized the attachment of lands adjudged by the magistrate liable to forfeiture for harbouring dacoits, under Section 14, Regulation IX. 1808. No 46, 24th May 1809, ... I. 11

3. Proprietors of *lakheraj* land or *durputnee talookdars* are not liable to the forfeiture of their lands for harbouring dacoits, &c. under Section 4, Regulation VI. 1810, the provisions of which apply exclusively to *sudder zumeendars*, *talookdars*, and farmers. No. 63, 26th July 1810, ... I. 15

4. The appeal from the decision of a zillah judge decreeing the forfeiture of an estate for resistance or evasion of process, must be received as regular : and the provincial court may stay execution of the decree under the rules of Section 11, Regulation XIII. 1808. No. 198, 8th March 1815, ... I. 62

5. The zillah judge may direct the Government pleader to appeal specially from the decision of the provincial court revising his decision, adjudging the forfeiture of land in consequence of an affray attended with homicide by the parties claiming it. [*See Act IV. of* 1840.] No. 342, 6th July 1821, ... I. 140

6. When land has been adjudged forfeited to Government, a report should be made for final orders as to its disposal. No. 342, 6th July 1821,..... I. 140

7. In a suit by the collector for the forfeiture of an estate for resistance or evasion of process, the amount of action must be calculated on the *sudder jumma* of the estate for the confiscation of which the collector sues ; and not on the amount of the arrear due. No. 386, 27th May 1825, ... I. 159

8. Decisions passed by the zillah judges awarding forfeiture of lands, or fines, for resistance or evasion of process, are appealable, after the extension of Regulation V. 1831, to the district, to the Sudder Dewanny Adawlut, without reference to amount of the annual *jumma*, produce or fine. No. 780, C. C. 12th April, W. C. 10th May 1833, ... II. 94

9. The Construction 386 (see No. 7) is applicable to suits for fines for resistance or evasion of process. The action cannot be laid at the amount of the fine, as it rests with the court on a determination of the case to fix the amount of the fine. No. 808, W. C. 2d August, C. C. 30th August 1833,..... II. 114

FORGERY.

1. The Construction No. 52 is superseded by the rules of Regulation XVII. 1817. No. 52, 4th November 1809, ... I. 12

2. Commitments for forgery are not restricted to the civil courts. [*This Construction is superseded by No.* 454, *No.* 6,] No. 139, 16th December 1813, ... I. 41

3. The rule in the concluding part of Section 6, Regulation IV. 1793, which provides for the return of rejected documents, does not apply to those which the civil court may consider to be forged, but only to those which the court may refuse to file as not being relevant, or not produced in time, or for other good and sufficient cause. No. 139, 16th December 1813,..... I. 41

4. Issuing forged deeds, though punishable under the Mahomedan law, is not liable to the penalties prescribed for forgery by Regulation II. 1807. [*But Section* 10, *Regulation XVII.* 1817, *prescribes a specific punishment for this offence.*] No. 195, 7th February 1815,..... I. 60

5. A prisoner having been acquitted by the court of circuit of uttering a forged note, knowing it to be forged, the magistrate cannot detain the prisoner on the plea of having a forged note in his possession, this not having been declared a punishable offence by any regulation. No. 361, 26th March 1824, ... II. 150

6. A magistrate cannot entertain a charge of forgery founded on a document exhibited in a civil court, unless the judge or judges of that court shall have directed a prosecution for forgery, or expressly declared the party aggrieved by such document at liberty to prosecute. No. 454, 13th July 1827, ... II. 191

7. In a case of forgery arising out of a civil suit tried by a sudder ameen, if the suit be pending before the judge in appeal, he may commit the party for forgery, if he see sufficient grounds for doing so. If the appeal have been decided, the alleged forgery can only be brought under the judge's cognizance by his obtaining the sanction of the Sudder Dewanny Adawlut to review the judgment. No. 572, 27th August 1830, ... I. 239

8. If the sudder ameen in the first instance thought the document was a forgery and that the party who filed it knew it to be so, he ought to have sent the case to the judge, who would have been competent to proceed against the person or persons he might have deemed guilty, in like manner as if the suit had been instituted and pending before himself. No. 572, 27th August 1830, ... I. 239

9. The words "any civil proceeding whatever" in Clause 2, Section 14, Regulation XVII. 1817, include miscellaneous cases ; a forgery therefore in a miscellaneous case may be committed by the civil judge and tried by the commissioner. No 838, C. C. 11th October, W. C. 15th November 1833,..... II. 132

10. "*Measurement papers*" must be considered as coming within the denomination of "deeds and papers," the fraudulently publishing as true, or otherwise fraudulently giving or attempting to give effect to which, knowing the same to be false, is declared by Section 10, Regulation XVII. 1817, to subject the

offender on conviction to the penalties prescribed in that section for forgery. No. 1061, C. C. 9th December, W. C. 23d December 1836, ... II. 289

11. Opening the Government dawk wallet, and extracting the telegraph and altering the hour of arrival and despatch of the Government mail with a view to defraud Government, held to amount to forgery as described in Clause 3, Section 4, Regulation II. 1807. No. 1099, C. C. 21st July, W. C. 18th August 1837, ... II. 314

FRAUD.

1. It is not competent to a civil judge to commit any party in a civil suit or other person on a charge of fraud; he should make the case over to the magistrate with a view to that officer's investigating the charge and disposing of it himself, or, if committable under the regulations, committing it at his discretion for trial at the sessions. No. 1221, W. C. 31st May, C. C. 5th July 1839,..... III. 54

No. 1225, W. C. 4th June, C. C. 12th July 1839, ... III. 56

FURRUCKABAD, NUWAB OF.

1. The Constructions Nos. 162, 785, and 843, have reference to cases referred to the Nuwab of Furruckabad according to the provisions of Section 8, Regulation II. 1803. No. 162, 26th May 1814, I. 50

No. 785, W. C. 26th April, C. C. 31st May 1833,..... II. 97

No. 843, W. C. 8th November, C. C. 29th November 1833, ... II. 138

FUTWA.

1. A *futwa* must be taken on the trial, before the court of circuit, of convicts for escape. No. 47, 13th June 1809,..... I. 11

2. Though a *futwa* is not required on a trial on the charge of having belonged to a gang of *thugs*, it should be taken when a prisoner is tried on a specific charge of murder and *thuggee*, unless the prisoner be tried under the provisions of Regulation VI. 1832. No. 1074, C. C. 10th February, W. C. 27th January 1837,..... II. 298

GAMBLING.

1. A magistrate being in doubt whether persons found playing in gambling houses are punishable, was directed to take a *futwa* from his law officer and proceed according to his exposition of the Mahomedan law. No. 891, C. C. 18th July, W. C. 5th September 1834,..... II. 177

GANG ROBBERY.

1. Clubs and sharpened bamboos should be considered as *arms* within the meaning of Regulation VII. 1825; and the case is referrible to the Nizamut Adawlut, when the gang is proved to have consisted of two or more persons, any one individual of whom may have been armed. No. 399, 12th August 1825, ... I. 167

2. Dacoity or gang robbery is defined by Clause 1, Section 3, Regulation LIII. 1803, to be when any person or persons "shall, in the day, or in the night, go forth with any offensive weapon, *or in a gang with or without an offensive weapon*, with the criminal attempt of committing *robbery*, and shall, by force or intimidation, *rob* or *attempt to rob* any person or persons:" while by Clause 2, Section 4 of the same Regulation, the mere act of going forth with a gang for the purpose of committing *robbery* is declared punishable with imprisonment not exceeding seven years. No. 750, 4th January 1833,..... II. 76

GENERAL WARRANTS.

1. The issue of general warrants is illegal. No. 766, 8th March 1833, ... II. 86

GHAUT MANJEES.

1. The local authorities should not interfere with ghaut manjees further than to refuse to recognize their claims to make exactions, and promptly to punish every attempt illegally to enforce those claims, and especially the detention of boats without the consent of the owners and other acts founded on pretended authority. No. 606, 11th November 1831,..... I. 251

GODENA.

1. The Court authorized the magistrate not to inflict *godena* on certain prisoners sentenced to imprisonment for life, in consideration of their circumstances and rank in life. No. 134, 19th August 1813, I. 39

GOMASHTEH.

1. A managing gomashteh, under the general and known powers vested in him, may institute and defend suits and carry on all concerns connected with the *kotee* of which he is the ostensible representative, without producing any authority from his principals for so doing. No. 75, 31st January 1811, ... I. 17

2. A gomashteh of an indigo planter is not considered to be a domestic servant or "workman" within the meaning of Section 5, Regulation VII. 1819. No. 924, C. C. 26th December 1834, W. C. 23d January 1835,..... II. 195

3. The provisions of Section 20, Regulation VII. 1799, are applicable to the gomashtehs and mohurrirs of indigo planters. Note on No. 924, 2d January 1835, ... II. 196

GOVERNMENT AND ITS OFFICERS, SUITS AGAINST.

1. A judge may entertain a suit brought by a minor and his guardian against the collector for having, under the authority of the Court of Wards, disposed of the minor's estate: the petition of plaint should in the first instance be forwarded to the Board of Revenue under Regulation II. 1814. No. 410, 16th December 1835, ... I. 172

2. Suits in which Government or its officers are parties are referrible, under Act XXV. 1837, to principal sudder ameens and other sudder ameens. No. 1112, W. C. 10th November 1837, C. C. concurred. ..... II. 327

3. Petitions of complaint preferred agreeably to the provisions of Regulation II. 1814, against the officers of Government in their official capacity, must be written, when first presented, on stampt paper of the full value in like manner with other plaints. No. 1116, W. C. 8th December 1837, C. C. concurred. ..... II. 330

GOVERNMENT PLEADER.

See "Pleaders in the Civil Courts," Nos. 11, 13.

GUARDIANS AND MINORS.

1. The zillah judge may appoint a guardian of a minor alleged to have been adopted by a widow, though the collateral heirs of the husband may deny the adoption, provided the minor claim to be a sharer in a joint estate paying revenue to Government. [*See Construction* 912, No. 17.] Possession on the part of the minor should be maintained or otherwise, on the opposite party contesting the claim by a suit, as in other cases under Regulation V. 1799. No. 310, 1st January 1820, ... I. 127

2. *A surberakar*, or manager, under the Court of Wards should, in all cases affecting the estate, real or personal, of the minor, or disqualified landholder, both sue and defend in the civil courts, under the instructions he may receive from the Court of Wards; but as the interests of Government cannot be ordinarily supposed to be concerned in such suits, he [the *surberakar*] has no more right to command the aid of the Government pleader than any other individual plaintiff or defendant. No. 335, 2d February 1821, I. 137

3. An executor or guardian of a minor not under the Court of Wards must, during the minority, stand in the place of the minor, and be subject to all the rules of suit and defence to which the minor would be subject were he not a minor. No. 335, 2d February 1821, ... I. 137

4. When objections exist to conferring the guardianship on the next of kin, the judge should appoint some person of respectability to act as guardian of the minor—so also in the event of the minor having no relations. The guardian so appointed may appoint a *vakeel* to carry on a suit against the minor's own father. No. 398, 5th August 1825, ... I. 166

5. A minor, through his guardian, may sue the collector, for having, under the authority of the Court of Wards, disposed of the minor's estate. The judge should refer the plaint, under Regulation II. 1814, to the Board of Revenue, and proceeded to the trial of it under Clause 4, Section 3 of that Regulation, in the event of its not being deemed requisite by that authority to direct redress to be afforded. No. 410, 16th December 1825, ... I. 172

6. No appeal lies to the provincial court from an order of a zillah judge for appointing a guardian; such order is appealable only to the Sudder Dewanny Adawlut. [*Provincial court abolished.*] No. 596, 24th June 1831, ... I. 248

7. The clandestine marriage of a minor female, placed under a guardian appointed under Regulation I. 1800, is not punishable by the criminal courts. No. 637, 27th May 1831, ... II. 9

8. *Bafutoonissa* adopted *Moomtazoodeen*, in 1225 B. S., and made over her estate to him by deed of gift, retaining possession as manager for her adopted son through *Hamud Meean*, her *gomashteh*, who after her death continued in possession till he died in 1236 B. S., when *Nuzzuroodeen*, brother of *Bafutoonissa*, took possession in right of his daughter, *Uzmutoonissa*, who had been married to *Moomtazoodeen* by *Bafutoonissa*, in virtue of a deed of gift alleged to have been executed on his marriage by *Moomtazoodeen* with the consent of *Bafutoonissa*. *Moomtazoodeen* being a minor, *Gour Gopal* was appointed his guardian at the instance of his brother *Aklakoolla*, and claimed the estate under the original deed of gift of *Bafutoonissa*. The Court, presuming *Nuzzuroodeen* to have taken possession on the death of the *gomashteh*, were of opinion that under Section 4, Regulation V. 1799, his possession should not be disturbed, unless, on the institution of a regular suit by the opposite party, he should be unable or neglect to give security which in that case would be required of him. No. 651, 5th August 1831, ... II. 15

9. The judge having removed the guardian of Moomtazoodeen [in the preceding case,] was informed that he had no authority to do so, without the sanction of the Court. They did not consider the reasons assigned by him sufficient to warrant the removal; for though the possession of the estate, for the protection of which he was appointed, was in the hands of the opposite party, the claim of the minor thereto remained to be decided, and the appointment of the guardian might be necessary to bring forward and prosecute a suit in the civil court in the regular manner. The Court therefore ordered that the guardian should be restored to office. No. 666, 6th January 1832, II. 30

10. The guardian of a minor being his representative, is entitled to recover the minor's share of the proceeds of the estate, if managed by a *surberakar*,

and the zillah judge has no authority to interfere with him in the disposition of the minor's property. No. 654, 19th August 1831, ... II. 17

11. The estate of a minor being a joint undivided estate, the judge should, on the application of the minor's mother, appoint a guardian and report his nomination for the confirmation of the Court. No. 663, 16th December 1831, ... II. 29

12. Guardians and managers appointed under Regulation I. 1800, must be left to exercise their own judgment as to managing the estate of the minor committed to their care. No. 663, 16th December 1831, ... II. 29

13. The Court being of opinion that the Regulations do not authorize the judge to entertain an establishment to manage the accounts of the estates of certain orphan wards of the court, and deeming the establishment unnecessary, annulled the judge's order. No. 682, 16th March 1832, ... II. 37

14. The civil courts are not expected to call upon guardians, appointed by them, to deliver up their accounts for their inspection, nor are they competent to exercise any active interference in the management of the property of the ward. No 720, W. C. 21st September, C. C. 28th December 1832, ... II. 57

15. On the receipt of credible information against the character of the guardian, shewing him to the court's satisfaction to be unfit for the situation, the court is competent to make enquiry into the matter and take measures for his removal. No. 720, W. C. 21st September, C. C. 28th December 1832, ... II. 57

16. For the recovery of any monies or property, which on investigation the guardian may appear to have embezzled, the court is not empowered to interfere except on the institution of a regular suit. No. 720, W. C. 21st September, C. C. 28th December 1832, ... II. 57

17. The judge, doubting whether a guardian could be appointed for a minor sharer of an estate the rent of which was paid to the zumeendar, was informed that there was nothing in Regulation I. 1800, which restricts its application to the minor heirs of joint undivided estates paying revenue immediately to Government. No. 912, 24th October 1834, .. II. 187

18. The guardian of a minor having resigned, the Court ordered that the security bond furnished by him on undertaking the trust, should be retained in the custody of the zillah court until the lapse of 12 years from the resignation of the trust, or from the date of the minor's attaining his majority, unless the minor on coming of age should consent to its being restored to the parties concerned. No. 948, 1st May 1835, ... II. 210

GUARDS.

See "Neglect of Duty," *passim.*

HAATS.

1. The magistrate of Allahabad was informed that on any new dispute arising regarding the right to establish *haats*, he should be guided by the Circular Orders, Nizamut Adawlut, 10th December 1830; but that he must uphold a former summary order of the Benares court of circuit, until the same was set aside by a regular suit. No. 639, 10th June 1831, ... II. 11

2. A similar order passed summarily by two judges of the Sudder Dewanny Adawlut, fixing the days on which a *haat* in Sylhet was to be held, was declared in full force till set aside by a regular civil suit, notwithstanding the Circular Orders, Nizamut Adawlut, 10th December 1830, which refers only to new disputes regarding *haats*, with which the magistrate should not interfere unless where it may be necessary to prevent a breach of the peace. No. 937, 20th March 1835, ... II. 204

HIBEH-BIL-EWUZ.

See "Stamps, II," No. 14.

HINDU LAW.

1. The local position of a Hindu family does not necessarily determine the law by which their disputes ought to be decided. No. 1007, C. C. 22d April, W. C. 13th May 1836, ... II. 251

HOONDEES.

See "Stamps, II," Nos. 1, 7, 20.

IJAREHDAR.

See "Jotedar."

ILLEGITIMATE CHILDREN.

1. Illegitimate children are considered as of the same country as their mothers. No. 806, W. C. 26th July, C. C. 6th September 1833, ... II. 113

2. The illegitimate son of an European British subject by a native mother can be tried by the local courts on a charge of adultery: but a married woman, the legitimate child of a British father, is not amenable to the local courts on a similar charge preferred against her by her husband. No. 978, W. C. 11th September, C. C. 9th October 1835, ... II. 228

3. The evidence of the mother of an illegitimate child against the alleged father is *primâ facie* good as far as it goes: but it should be sifted and weighed as any other testimony, and tested, as far as practicable, by any circumstantial evidence that may offer. The result must depend on the belief or otherwise reposed in it by the magistrate. No. 1163, C. C. 3d August, W. C. 13th July 1838, ... II. 20

INADEQUACY OF PRICE.

1. A judge in selling property in execution of a decree, is competent to take every precaution to prevent the sale of property for less than its marketable value; but after a sale has been once closed, and a bidder been given to understand that he is the purchaser for the sum offered, the property cannot be offered for resale on the ground of inadequacy of the price—it having become the right of the purchaser. No. 829, W. C. 20th September, C. C. 18th October 1833,..... II. 127

2. Inadequacy of price alone is not a legal ground for annulling an auction sale. No. 928, C. C. 16th January 1835, ... II. 199

INCEST.

1. Incest may be prosecuted as a public offence: the rule in Clause 6, Regulation XVII. 1817, which requires that in case of adultery the woman must be prosecuted by her husband, not being applicable to the other kinds of *zinna*, among which incest is included. No. 865, W. C. 14th February, C. C. 28th February 1834, ... II. 156

INDIGO.

1. If a ryot enter into engagements with an indigo planter to cultivate a particular spot of ground and refuse to fulfil his engagements, the planter is not at liberty to cultivate the land by means of his own servants, nor has he a right to demand the assistance of the police for the purpose of compelling the ryot to fulfil his contract. His only legal remedy is in the civil court, as prescribed by Section 5, Regulation VI. 1823. [*See Section* 2, *Regulation V.* 1830, *and Acts XVI. of* 1835 *and X. of* 1836.] No. 385, 29th April 1825, ... I. 159

2. An indigo planter, not being a *zumeendar*, has no power to summon ryots and compel their attendance. No. 394, 17th June 1825, ... I. 165

3. Engagements executed by parties applying for possession of indigo crops under Clause 9, Section 3, Regulation V. 1823, are to be enforced under a summary award; the decree should contain a provision for the payment, by the party cast, of the sum specified in his engagement; and in the event of the amount not being paid, it should be realized by the process for giving effect to summary judgments. The case is not altered by the fact of the parties cast being British born subjects, such individuals being, by Sec. 107, Cap. 155, Geo. III. declared, equally with natives, amenable to the local courts of civil judicature. No. 515, 24th July 1829, ...I. 218

4. The defendants under Regulation V. 1830, should be summoned by an *itilehnameh*, to be served by a single peon. The order to cultivate can only be enforced by the menace of increased punishment on further default. [*See the references at No.* 1.] No. 564, 9th July 1830, ... I. 237

5. The limitation of one year prescribed for summary suits for rent by Section 4, Regulation II. 1805, is applicable to suits for the recovery of advances for indigo instituted under Regulation VI. 1823. No. 565, 9th July 1830,..... I. 237

6. The owner of the factory for the time being must be considered as standing in the place of the former owner by whom the advance was made, and equally entitled to adopt any of the processes for the recovery thereof which the regulations allow. No. 565, 9th July 1830,..... I. 237

7. A magistrate can interfere with indigo disputes, only when they are cognizable under Regulation XV. 1824, as construed by Circular Orders, Nizamut Adawlut, 27th December 1830: such disputes as do not come within Regulation XV. 1824, must be heard and decided in the civil court under Regulation VI. 1823. [*Since the rescission of Regulation XV.* 1824, *by Act IV.* 1840, *all disputes of this nature are cognizable by the magistrate.*] No. 652, 5th August 1831, ... II. 16

8. In indigo disputes which are cognizable by a magistrate, he may depute an assistant under Regulation XI. 1824. No. 652, 5th August 1831,... II. 16

9. If it be proved that the engagement [by which the ryot engages to cultivate indigo for five or ten years, and by which he is required to settle his accounts annually and receive fresh advances] was voluntarily executed by the ryot, the criminal court must enforce the provisions of Section 3, Regulation V. 1830. [*This section is rescinded by Act XVI.* 1835, *and the magistrate's power to force a ryot to fulfil his engagements taken away.*] No. 873, 28th February 1834, ... II. 164

10. No objection can be taken to the engagement under Section 7, Regulation VI. 1823, on account of the stamp, provided the value of it is such as is required for a bond of a similar amount. No. 873, 28th February 1834, ... II. 164

11. Regulation V. 1830, contains no provision for compelling a ryot to settle his accounts at the end of the year. No. 873, 28th February 1834, ... II. 164

12. A ryot cannot claim a settlement of his accounts, under Section 5, Regulation V. 1830, till "the expiration of the period of his contract," and if he assert that the planter is indebted to him for indigo plant, and refuses to pay what he demands, he must seek redress by a regular civil suit. No. 934, C. C. 20th February, W. C. 13th March 1835, ... II. 202

13. Regular suits instituted in conformity with the provisions of Regulation VI. 1823, and Act X. 1836, in which the amount of the claim does not exceed 300 rupees, and in which neither party may be an European British subject, European foreigner, or American, are cognizable by moonsiffs in like manner as other cases legally within the competency of those officers to dispose of. [*Section* 7, *Act VI.* 1843, *removes*

the restriction against the cognizance by moonsiffs of suits in which Europeans are parties.] No. 1092, W. C. 2d June, C. C. 23d June 1837,...II. 310

14. A zillah judge has no summary jurisdiction under Clause 1, Section 5, Regulation V. 1830, in case of an application by a ryot to settle his accounts with an indigo factory before the expiration of his contract. No. 1130, C. and W. C. 9th February 1838,..... III. 4

15. Held that a magistrate cannot decide indigo disputes, unless the parties claim the proprietary right in the land. [*This construction is superseded by Act IV.* 1840, *under which the magistrate may decide all disputes of this nature.*] No. 1170, C. and W. C. 17th September 1838,..... III. 27

16. The highest amount of penalty for non-performance of contract for indigo, i. e. "three times the amount advanced," includes interest. No. 1310, W. C. 24th September, C. C. 22d October 1841,...III. 83

17. The decision of a principal sudder ameen or sudder ameen passed in a summary suit instituted under Regulation VI. 1823, and referred to him for decision under Section 5, Act X. 1836, is not appealable with reference to the rule in Section 5 of the former enactment. No. 1357, C. C. 5th August, W. C. 2d September 1842,..... III. 505

18. A, a ryot, asserting himself to be under engagements to B, an indigo planter, complains that C, another planter, who states that he has made advances to A, is about forcibly to cut the crop. Held that A, being in possession, may give the disputed crop to B or C, and that the magistrate may prohibit C from attempting to take forcible possession; C, of course will have his redress in the civil court against A, or B, under Regulation VI. 1823, and Act X. 1836, and if he timely take his measures there, supposing his claim be in reality a better one than that of B, he may upon giving security on a summary enquiry be enabled to cut and carry away the disputed plant. No. 1359, C. C. 5th August, W. C. 2d September 1842,..... III. 97

INSANE.

1. A session judge may dispose of insane prisoners agreeably to the rules contained in paragraph 4 of the Circular Orders, Nizamut Adawlut, 11th February 1825. No. 822, C. C. 30th August, W. C. 20th September 1833, ... II. 123

2. The courts cannot interfere with the estate of a lunatic consisting only of personal property. No. 1311, W. C. 15th October, C. C. 5th November 1841,..... III. 83

INSOLVENT DEBTORS.

1. The provisions of Section 11, Regulation II. 1806, for the relief of insolvent debtors, are applicable only to persons confined under a *decree* of court whether regular or summary, and not to those confined under judicial process against whom no final decision or award has been passed. No. 24, 20th September 1806,..... I. 7

No. 60, 22d May 1810, ... I. 14

No. 86, 11th April 1811,..... I. 20

No. 95, 12th December 1811, ... I. 23

No. 319, 21st July 1820, ... I. 131

No. 328, 1st September 1820, ... I. 134

No. 372, 31st December 1824,..... I. 154

2. They are consequently not applicable to the case of a person confined by the collector for arrears of public revenue. No. 24, 20th September 1806, I. 7

No. 86, 11th April 1811,..... I. 20

3. Nor to that of an *abcar* confined at the instance of the collector for arrears of *abcaree* revenue. No. 302, 28th May 1819,..... I. 121

4. No fixed period is specified to be allowed to the creditor to point out property of the debtor applying for his release; it is left to the discretion of the court enforcing the judgment. No. 86, 11th April 1811, I. 20

5. A pauper plaintiff whose suit has been dismissed, confined at the instance of the defendants, on account of costs, is, like other debtors, entitled to the benefits of this provision. No. 110, 3d September 1812,..... I. 29

6. A debtor is entitled to his release on making a fair discovery and surrender of all the property he possesses, without regard to the amount of his debt, or the length of time he has been imprisoned under the decree. The provisions of Clause 7, Section 5, Regulation XXIII. 1814, makes no alteration in the rule, further than to determine that no one shall be confined more than six months in satisfaction of a decree for a sum not exceeding 64 rupees. No. 308, 19th November 1819,..... I. 125

No. 328, 1st September 1820, ... I. 134

7. The provisions of Section 11, Regulation II. 1806, are not applicable to persons imprisoned under a summary sentence passed by a judge, in pursuance of Clause 1, Section 17, Regulation XXVIII. 1803, for having aided and abetted in withdrawing cattle, attached for arrears of revenue due to Government; the sentence providing that the party shall be confined until the property withdrawn from attachment be restored or the arrear paid. But it was held that the other parts of the decree being satisfied, the defendants could not be detained for costs alone. No. 309, 17th December 1819, ... I. 126

8. The collector is competent to release a person confined in execution of a summary decree for rent on proof of insolvency. No. 784, C. C. 19th April, W. C. 17th May 1833, ... II. 97

9. A zillah judge entrusted with the execution of a decree of the Sudder Dewanny Adawlut, is competent to release the debtor confined in execution thereof, on proof of insolvency, without referring the case to the Court. No. 1062, C. C. 16th December, W. C. 30th December, 1836, ... II. 290

10. Wilful concealment of bond-debts due to an insolvent, examined on oath, is punishable on conviction as wilful perjury. No. 1086, C. C. 14th April, W. C. 28th April 1837,..... II. 306

11. The native judges are competent to enquire into the solvency of debtors confined under their decrees. The application for release should be preferred to the zillah judge, who will dispose of the case, or refer it for investigation to the native judge. If the decision of the latter be for the release of the prisoner, application should be made to the judge for an order to the jailor to that effect, leaving parties dissatisfied with the order of the lower court, the option of appeal. No. 1108, C. C. 8th September, W. C. 22d September 1837, ... II. 324

12. The judge is not competent to release a debtor without the consent of the creditor, solely on the plea of illness, or on any other ground than that of insolvency. No. 1114, W. C. 24th November, C. C. 8th December 1837, ... II. 328

13. The provisions of Section 11, Regulation II. 1806, are intended solely for the relief of insolvent debtors who may be in confinement; but the court may accept from a debtor, not in confinement, an engagement to liquidate his debt by instalments, and cause execution of the decree in conformity thereto. No. 1196, C. C. 18th November, W. C. 26th August 1836, ... III. 41

INSTITUTION FEE.

See "Stamps, III." *passim.*

INSTRUMENTS OF HUSBANDRY.

1. The prohibition in Section 14, Regulation V. 1812, against the sale by moonsiffs of instruments of husbandry, does not extend to sales in execution of decrees of court. No. 962, W. C. 26th June, C. C. 31st July 1835, ... II. 219

INTEREST.

1. The restriction against a judgment for interest exceeding principal, is not applicable where the accumulation is subsequent to the institution of the suit; and therefore not ascribable to procrastination on the part of the creditor. No. 359, 19th December 1823, ... I. 149

2. The provisions of Regulations XV. 1793, and XXXIV. 1803, respecting the legal rate of interest, are applicable only to loans of money and not to loans of grain. No. 487, 12th September 1828, ... I. 207

3. Interest may be awarded on the amount decreed on 9th February 1820, not realized till March 1832, provided the delay in realizing it was not owing to the default of the decree-holder. No. 690, 4th May 1832, ... II. 42

4. When costs of suit are included in a decree, they become part of the matter awarded, and as such are liable with other property so adjudged to interest from the date of the court's decision. No. 715, W. C. 7th September, C. C. 5th October 1832,... II. 56

5. Appellate courts are not competent to award less than the legal rate of interest, i. e. 12 per cent. per annum on the sum decreed by the lower court. No. 976, W. C. 7th August, C. C. 18th September 1835, ... II. 227

6. The court executing a decree may impose accruing interest of the debt on any claimant whose objections may in its judgment be evidently collusive and litigious, or vexatious and unfounded. No. 1010, C. C. 3d June, W. C. 24th June 1836,..... II. 257

7. Interest on costs should be granted in all cases, whether the claim be for money, land, or other description of property. No. 1095, C. C. 30th June, W. C. 21st July 1837, ... II. 312

8. If a party sue for the principal of a debt in a court which he knows is not competent to adjudge a larger amount, without, at the same time, claiming interest, he must be presumed to have relinquished his claim to interest, and cannot, after having obtained a decree for the principal, institute a second suit to recover the interest, as this would amount to splitting the cause of action so as to render a suit cognizable by a particular court of inferior jurisdiction, which is opposed to the practice of the courts. No. 1182, C. and W. C. 2d November 1838,..... III. 32

INTESTATES.

1. The judge of Backergunge having asked what measures were to be adopted respecting the disposal of sundry bonds, *tumassooks*, &c., deposited in his court, belonging to persons dying intestate, was referred to Section 7, Regulation V. 1799, which requires that an inventory of all personal property, unclaimed after a period of 12 months from the decease of the proprietor, shall be transmitted to the Governor General in Council for his orders. No. 541, 19th March 1830, ... I. 229

2. The provisions of Section 7, Regulation V. 1799, and Clause 7, Section 16, Regulation III. 1803, apply only to the property of persons dying intestate, when no heirs are forthcoming; unclaimed property sent in by the police should be disposed of by the magistrate. No. 927, W. C. 16th January, C. C. 6th February 1835, ... II. 199

3. Hoondees and other obligations for the payment of money, appertaining to the estates of persons dying intestate, may be realized by the civil court on falling due, and the amount kept in deposit until the expiration of 12 months, specified in Section 7, Regulation V. 1799. The interference however of the civil court should be limited to the simple presentation of the instruments payable at a fixed period, the failure to present which would involve a risk of loss, and

to the realization of monies indisputably due thereon, and not extend any further, or include the assertion and prosecution of denied or disputed claims. No. 1286, C. C. 14th August, W. C. 4th September 1840,..... III. 77

IRREGULARITY OR ILLEGALITY OF DECISIONS.

1. A judge is not competent to set aside the decision passed by a moonsiff appointed under Regulation V. 1831, on the ground of irregularity or error: such decisions are on the same footing as the decrees of other courts, and no appeal is admissible from them, notwithstanding irregularity or error, after the lapse of the prescribed period, unless good and sufficient cause be shewn for the delay which may have occurred in excess of that period. No. 979, C. C. 11th September, W. C. 2d October 1835, ... II. 228

2. A judge, though he cannot set aside a decision of one of the inferior tribunals on the ground of irregularity or illegality, may direct the parties interested to appeal though the prescribed period for appealing has elapsed. No. 1048, C. C. 30th September, W. C. 21st October 1836,..... II. 281

ISMINUVEESEES.

See "Stamps, V." *passim.*

ISSUING FORGED DEEDS.

See "Forgery," No. 4.

JAILS, CIVIL.

See "Civil Jails and Prisoners," *passim.*

JAILS, CRIMINAL.

1. The commissioner of circuit is not authorised to issue orders direct to jail officers regarding the management of jails. The control of the Nizamut Adawlut over jails is not affected by Section 3, Regulation IX. 1831. No. 746, C. C. 28th December 1832, W. C. 8th February 1833, ... II. 72

2. Held that under the urgent circumstances of the case, the commissioner of circuit [also superintendant of police] was justified in directly interfering with the management of a criminal jail. No. 909, W. C. 17th October, C. C. 14th November, 1834,..... II. 186

3. The power of hearing appeals from the jailor and other subordinate officers of the jail, is by Section 7, Act XXIV. 1837, vested in the session judge. No. 1142, C. and W. C. 23d March 1838,... III. 10

4. Prisoners disabling themselves for labor are guilty of a breach of prison discipline, and as such punishable by the magistrate under the general rules laid down for the better management of the public jails. No. 1152, C. and W. C. 11th May 1838, III. 16

5. The session judges have the same control and superintendance over the jails as was possessed by the commissioners under Section 3, Regulation I. 1829. This however in no way relates to the strength and expense of the jail establishment; the correspondence in such matters must still be conducted through the office of the superintendant of police, under the provisions of Section 13, Regulation XVII. 1816, and Section 2, Act XXIV. 1837. No. 1197, C. C. 4th January, W. C. 18th January 1839, ... III. 42

6. A session judge is vested with the control and superintendance of the jail of the district at which his court may be held, as well as of any district that may be subject to his jurisdiction. No. 1198, W. C. 11th January, C. C. 25th January 1839, III. 42

JOINT MAGISTRATE.

1. When the police establishment of the thannas within the limits of a joint magistrate's jurisdiction have not been placed under his immediate authority by an order of Government, in conformity with Section 11, Regulation XVI. 1810, the whole of the native officers composing those establishments continue under the control of the magistrate of the district. No. 210, 8th June 1815,..... I. 67

2. Application for leave by the officers of thannahs under the above predicament should be forwarded, through the joint magistrate, to the magistrate. No. 232, 24th January 1816, ... I. 76

3. If a joint magistrate be acting in subordination to his principal without independent authority, his orders are appealable in the first instance to the magistrate, the commissioner being competent to call for the proceedings of any of his subordinates: if the joint magistrate be acting independently of the magistrate, that is, has charge of a portion of the district or a particular department, his orders are appealable to the commissioner direct. [*Rescinded by Construction* 1326.] No. 858, W. C. 31st January, C. C. 14th February 1834, ... II. 153

4. An order of commitment made by a joint magistrate residing at the sudder station without independent jurisdiction, cannot be reversed by the magistrate of the district: this can only be done by the session judge or commissioner. No. 906, W. C. 10th October, C. C. 24th October 1834,..... II. 185

5. A joint magistrate is competent, under para. 6 of the resolution of Government of 1st November 1831, unless expressly interdicted by the magistrate, to commit prisoners for trial to the sessions court, and it is not necessary for the magistrate to revise his commitments. No. 911, 17th October 1834,... II. 187

6. As under the orders of Government of 1st November 1831, joint magistrates are competent and required to exercise the full powers of magistrate, unless interdicted from the exercise of such power by

their superior; they are empowered to try appeals from the orders of sudder ameens in petty criminal cases. No. 1231, C. C. 12th July, W. C. 9th August 1839, ... III. 58

7. A magistrate is competent to refer to a joint magistrate, not holding independent jurisdiction, criminal cases for report, though, with reference to the respective powers of those officers, the measure should be resorted to as seldom as possible. No. 1234, C. C. 19th July, W. C. 9th August 1839,..... III. 59

8. Under Act XXXI. 1841, all appeals from a joint magistrate, of whatever powers, are appealable exclusively to the session judge. Construction 858 is therefore no longer in force. No. 1326, W. C. 12th February, C. C 26th March 1842, ... III. 87

JOTEDAR.

1. Though the land included in an *ijareh*, or the *jote* of a cultivating ryot, cannot be transferred by sale, the interest of the party claiming the *ijareh* or *jote* is capable of being valued: the plaintiff may lay his suit at the amount he considers the value of his interest in the thing claimed; to which if the defendant make objection, the judge will decide thereon, after making the summary enquiry directed by Section 4, Regulation XIII. 1808. No. 702, C. C. 6th July, W. C. 27th July 1832, ... II. 47

2. In a suit by a resident cultivator, instituted in the zillah court or before a moonsiff to set aside the summary award of a collector adjudging a balance against him and ejecting him from his *jote* as a defaulter, the value must be estimated at the amount of rent in dispute, or, in other terms, at the amount of balance sued for in the first instance. No. 862, W. C. 7th February, C. C. 28th February 1834, II. 156

3. The rights and interests of a *jotedar* may be sold in execution of a decree. No. 890, C. C. 11th July, W. C. 5th September 1834, ... II. 177

4. The landlord must establish by a suit, regular or summary, the existence of an arrear, before he is at liberty to cancel the lease of an under tenant; and *khoodkasht ryots* have also the power of immediately paying into court, any sum adjudged to be due from them, before they can be ejected. No. 1205, W. C. 15th March, C. C. 12th April 1839, ... III. 46

JUREEMANA.

1. In reply to a question whether proprietors of estates are entitled to *jureemana* or penalty equal to interest on arrears of land rent, the Court informed the judge that they were not aware of any regulation which authorizes proprietors to demand more than the rent claimable by them, with legal interest thereon; but directed him to decide the suit out of which the question arose, [which appeared to be appealable to the Sudder Dewanny Adawlut,] leaving the party dissatisfied to appeal. No. 660, 21st October 1831, ... II. 28

JURISDICTION OF CIVIL COURTS.

See "Original Suits, III." *passim.*

JURISDICTION OF CRIMINAL COURTS.

1. A magistrate, in whose jurisdiction a person may be apprehended, is competent to take cognizance of the charge, and commit to the court of circuit, though the crime was committed in another district. [*For rule of proceeding in such case, see Regulation VIII.* 1822.] No. 271, 26th March 1817, I. 96

2. A magistrate cannot apprehend any person charged with offences committed beyond the limits of his own district, and not actually residing within the district of such apprehending magistrate when the complaint was preferred. No. 404, 26th August 1825, ... I. 169

3. The magistrate of Rungpore having requested permission to transfer a criminal trial from Rungpore to Goalpara; the Court could not sanction the transfer, Goalpara being a place to which the regulations of Government do not extend, and not being one of those stations contemplated in the provisions of Regulation VIII. 1822. No. 474, 22d February 1828, ... I. 201

4. An appeal from an order of the magistrate of Sylhet, attaching lands at the requisition of the magistrate of Dacca Jelalpoor, should be made to the commissioner of the division, [session judge,] to which the former is subordinate, as the attachment was his immediate act. No. 625, 25th February 1831, II. 4

5. In a case of disputed possession, the plaintiff asserted the lands to be situate in Purneah, the defendant that they were in Bhagulpore. The magistrate of Purneah was informed that, if the case was cognizable under Regulation XV. 1824, he should make the necessary enquiry, and if it should appear that the lands were in Bhagulpore, he should refer the parties to the magistrate of that district, and certify to that officer the proceedings held by him in the case. No. 694, 18th May 1832, ... II. 44

6. An inhabitant of Lahore carried away a child without the knowledge of his parents, inhabitants of the same state, and settled in the British territories, in which he was accused by the parents and proved to have committed the crime. Held that though the prisoner could not be tried in our courts for child stealing, he might be committed on the minor charge "of retaining in his possession a child knowing him to have been stolen." No. 1043, W. C. 30th September, C. C. 2d September 1836, ... II. 279

7. Held that the session judge of Meerut was not competent, without first having obtained the authority of Government, to try certain prisoners, charged with murder by thuggee and plunder of pro-

perty, such acts having been committed in the Umballa territory ; and that similarly it was not competent to that officer, in the absence of the authority of Government, or of that of the Nizamut Adawlut, under the provisions of Regulation VIII. 1822, to enter on the trial of certain other persons on the charge of buying children from the thugs knowing them to have been unlawfully obtained, or aiding and abetting in the sale, both of which offences were perpetrated in the district of Kurnaul, within the jurisdiction of the session judge of Delhi. No. 1213, W. C. 3d May, C. C. 17th May 1839, ... III. 51

See "Military Cantonments, Courts, &c. Criminal."

JURORS.

See "Assessors," *passim.*

JUSTICE OF THE PEACE.

1. The appeal from a conviction of a British subject by a magistrate in his capacity of justice of the peace under 53 Geo. III. Cap. 155, lies not to the circuit court, but to the Supreme Court in Calcutta. [*Under Act IV.* 1843, *the appeal will lie to the session judge*]. No. 340, 25th May 1821, ... I. 139

2. A magistrate requiring advice on any point connected with his duties and powers as justice of the peace, should consult the advocate general, through the Secretary to Government in the judicial department [*Such applications to be forwarded to the advocate general through the Sudder Court—See orders of Government, dated 6th February* 1843, *Circular Order, Sudder Dewanny and Nizamut Adawlut, dated 21st April* 1843.] No. 446, 9th March 1827, ... I. 188

KABEENNAMEH.

See "Stamps, II." No. 2.

KAZEE.

1. The attestation by a *pergunnah kazee* of a deed for land situate in a pergunnah of which he is not appointed *kazee*, and executed out of his jurisdiction, must be considered as entirely unofficial, and of no greater weight than the attestation of other persons not given officially. No. 14, 29th November 1805, I. 4

2. Kazees are competent to authenticate powers of attorney ; but the court may call for further evidence, should there appear reason to doubt the execution of an instrument by the person whose act and deed it purported to be. No. 436, 3d November 1826, ... I. 183

3. A kazee cannot appoint a deputy without the express permission of the ruling power. No. 707, 27th July 1832, ... II. 51

4. A pergunnah *kazee* may sue to recover what he considers himself entitled to for fees of office ; but it rests with the court to determine the extent to which such claim should be admitted, keeping in mind that the payment of fees is entirely voluntary. No. 1042, C. C. 19th August, W. C. 9th September 1836, ... II. 278

5. The zillah judge cannot summarily interfere to put a *kazee* in possession of his *pergunnahs*, unless a decree expressly sanctions such a proceeding. No. 1042, C. C. 19th August, W. C. 9th September 1836, ... II. 278

6. For the celebration of marriages and performance of religious duties or ceremonies, the acts of any *kazee*, though not specially empowered for the immediate locality, would be valid and lawful ; but the drawing up and attestation of papers and making a record of them must be performed [to be legal] by the kazee of the jurisdiction in which the property specified may be situated. No. 1042, C. C. 19th August, W. C. 9th September 1836, ... II. 278

KISTBUNDEE.

1. A kistbundee executed by a debtor confined in execution of a decree, acknowledged by the parties before the judge and attested by his signature, is to be enforced like a decree. No. 44, 7th December 1808, ... I. 11

KUBOOLYUTS.

1. Regulation V. 1812, contains no provisions for a summary suit to compel *ryots* to take *pottahs* and give *kuboolyuts*, but the landholders may proceed according to Section 5, Regulation IV. 1794, and Sections 9 and 10, Regulation V. 1812. No. 257, 4th September 1816, ... I. 89

2. No stamp is required for *pottahs* and *kuboolyuts*, granted to or taken from the actual cultivators of the soil, whether Government be a party or not to the transaction. No. 635, 20th May 1831, ... II. 9

LABOR.

1. It is not competent to a magistrate to permit convicts to work on the roads who have not been sentenced to labor, though they should themselves desire to be so employed. No. 1005, W. C. 8th April, C. C. 8th July 1836, ... II. 250

See "Exemption from labor," *passim.*

LAKHERAJE.

See "Rent Free Lands," *passim.*

LAW OFFICERS.

1. Section 8, Regulation V. 1797, has express reference to the case of a law officer of a circuit court prevented by illness or otherwise from attending. (*See*

Regulation IV. 1830.) No. 153, 14th April 1814, ... I. 48

2. A magistrate has no control over the law officer of the circuit court, and is not authorized to direct the Government pleader to communicate with such officer on a matter relating to a *futwa* delivered by him in a criminal trial before the circuit court. No. 631, 25th March 1831, ... II. 17

See "Reference of Criminal Cases to Law Officers and Sudder Ameens," *passim.*

LEASES.

1. An *ijarehdar* obtains a farm for 5 years, and enters into engagements with the *ryots*; but becoming a defaulter at the end of two years, is ousted by the *zumeendar* under Clause 7, Section 15, Regulation VII. 1799. The judge having asked if a new *ijarehdar*, obtaining a lease for the remaining three years, can cancel the leases granted by the first *ijarehdar*, was referred to Clause 4, Section 18, Regulation VIII. 1819, which empowers the *zumeendar* to cancel all leases, &c. intermediate between himself and the actual cultivators. No 502, 24th April 1829, ... I. 214

2. A lease granted to a farmer by the Court of Wards upheld, in the absence of collusion, against a person who, by a regular suit, disproved the adoption of the minor for whom the Court of Wards acted, and obtained a decree for the estate in his own favor. No. 540, 26th February 1830, ... I. 229

3. Regulation VI. 1822, has retrospective as well as prospective effect; and leases granted by the Court of Wards, though antecedent to the promulgation of that enactment, have the same effect, and are subject to the same rules and regulations as are applicable to other persons holding farms under the collector of land revenue. No. 943, C. C. 6th March, W. C. 6th February, Government 7th April 1835, ... II. 206

4. Courts executing decrees are competent, on a summary investigation, to cancel any lease granted by the party against whom the decree has been given, which may be satisfactorily proved to be fraudulent, leaving the parties dissatisfied to appeal summarily, or institute a regular suit to recover possession of their alleged rights. No. 1059, 2d December 1836, ... II. 288

LEPER.

1. The fact of a witness being afflicted with leprosy, does not bar the admission of his evidence in the courts of justice. No. 726, 26th October 1832, ... II. 60

2. A Hindoo is liable to punishment for aiding and abetting in the suicide of a leper. No. 985, W. C. 30th October, C. C. 18th December 1835, II. 233

LIMITATION OF ACTION IN ORIGINAL SUITS.

See "Original Suits, VI." *passim.*

LIMITATION OF APPEAL IN CIVIL SUITS.

See "Appeals, IV. Limitation of time in," *passim.*

LIMITATION OF APPEAL IN CRIMINAL CASES.

See "Magistrate's orders, appeals from, and revision of," Nos. 16, 19, 23, 52.

See "Workmen and Servants," Nos. 5, 8.

LIMITATION OF COLLECTOR'S SUMMARY PROCESS.

See "Collectors," Nos. 6, 7, 8, 39.

LIMITATION OF DISTRAINT.

See "Distraint," Nos. 1, 5.

LIMITATION OF TIME.

1. Application to enforce an award of arbitration dated 28th December 1840, the period of six months within which it was necessary to make the application expiring on the 28th June. Held that as that and the following day were holidays, it was allowable to the party to present his application on the next first court day. A party under a legal obligation to move a court within a given period, may be allowed to postpone such motion to a day beyond the period, supposing the last day to be a Sunday or holiday. No. 1342, C. C. 18th March, W. C. 29th March 1842, III. 91

LITIGIOUS CRIMINAL APPEALS.

See "Malicious Charges," Nos. 4, 9.

LITIGIOUS SUITS AND APPEALS.

1. The subsistence money of paupers confined for litigious suits or appeals should be paid by Government. No. 9, 13th September 1805, ... I. 3

2. Women of rank exempted from personal attendance cannot be confined for litigious suits or appeals. No. 11, 26th September 1805, ... I. 4

3. A litigious pauper may be confined notwithstanding an appeal be preferred from the decision. No. 12, 18th October 1805, ... I. 4

4. Litigious paupers are to undergo their confinement in the civil, and not in the criminal jail. No. 57, 9th January 1810, ... I. 13

5. Section 40, Regulation XXIII. 1814, does not authorize a moonsiff or sudder ameen to impose a fine for a litigious or vexatious suit; he should award damages to the defendant. The fine would be leviable only on account of Government. If damages are awarded, they belong to the party declared by the

decree entitled to them. No. 966, C. C. 17th July, W. C. 28th August 1835,... ..... II. 220

6. In the event of damages being awarded, no report need be made to the judge as required by Section 42, Regulation XXIII. in the case of fines imposed: [*see Sections* 3 *and* 4, *Act VI* 1843.] The damages in such case form part of the decree, and unless the party dissatisfied with it, appeal, the decree will be executed without reference to the judge, in the same manner as other decrees of court No. 966, C. C. 17th July, W. C. 28th August 1835,... II. 220

7. The courts may impose the payment of accruing interest of any debt on any claimant, whose objections are evidently collusive and litigious, or vexatious and unfounded, subject of course to an appeal. No. 1010, C. C. 3d June, W. C. 24th June 1836, ... II. 257

8. Fines imposed for litigious appeals, if not immediately forthcoming, are to be realized under the rules applicable to the execution of decrees. No. 1096, C. and W. C. 7th July, ... II. 313

LOCAL ENQUIRIES.

1. The native judges are entitled to no allowance for travelling charges or on other account in cases in which, for their own satisfaction or at the request of the parties, they may deem it proper to visit and inspect the property in dispute, or to make enquiries in regard to it on the spot: they are however entitled to the payment of their expenses when deputed to make local enquiries by a superior court. No. 1172, 14th September 1838,..... III. 27

See "Ameens," *passim*.

MAGISTRATE'S ORDERS, APPEALS FROM, AND REVISION OF.

1. The court of circuit may annul commitments made by, and dismiss charges pending before a magistrate, when such commitment and charges shall appear to be clearly and manifestly unfounded. No. 114, 26th November 1812, ... I. 33

2. The courts of circuit are competent, if they think a magistrate's order, though within his competency, improper or unjust, to annul the same, and direct the release or commitment of the defendant. No. 120, 8th March 1813, ... I. 34

3. Two or more judges of the circuit court may direct a magistrate to certify a case of disputed possession to the civil court, under Section 5, Regulation VI. 1813. [*The magistrates, since the enactment of Regulation XV.* 1824, *do not certify cases to the civil court. See Act IV.* 1840.] No. 167, 6th July 1814,..... I. 51

4. When a single judge of circuit at the sudder station has rejected a petition of appeal from the sentence of a magistrate, it is not competent to the other judges to call for and revise the proceedings on the same grounds, though they may call for them on other grounds. No. 205, 25th May 1815, ... I. 65

5. A single judge of circuit cannot alter or reverse the order of a magistrate, without the concurrence of one of his colleagues. No. 235, 9th February 1816,..... I. 78

6. A conviction by a magistrate in a trial, on the result of which he is expressly authorized by Section 19, Regulation IX. 1807, to pass sentence to the extent specified in that Section, is not liable to be impeached as a "conviction without trial," on the ground of its not being a "regular trial before a judge aided by his law officer." No. 259, 31st October 1816,..... I. 90

7. Nor can a court of circuit quash a sentence of conviction and punishment passed by a magistrate under the discretion vested in him by Section 19, Regulation IX. 1807, merely on the ground of his having tried a case of theft which, in the opinion of the court of circuit, should have been brought before that court—although it would be the duty of the judge of circuit, in pursuance of Section 63 of that Regulation, to report the magistrate's conduct to the Nizamut Adawlut, if it should appear he has been guilty of any serious or wilful misconduct, in the exercise of the powers entrusted to him, or, in the case of mere error of judgment, to point out the same to him for his future guidance. [*Sentences passed by magistrates under Regulation XII.* 1818, *have been repeatedly quashed under Section* 6 *of that Regulation, and the Circular Order, Nizamut Adawlut,* 16*th April* 1819.] No. 259, 31st October 1816,... I. 90

8. Two judges of a court of circuit may annul the order of a magistrate imposing a fine for contempt of court. This power should be exercised with the utmost discretion. No. 283, 29th December 1817, I. 105

9. Held that two judges of circuit cannot annul a commitment after the proceedings have been laid before the judge on circuit, who has postponed the trial in consequence of the non-appearance of the accused. No. 290, 2d April 1818, ... I. 111

10. The Nizamut Adawlut, considering a commitment to have been made without due enquiry, annulled it, and directed the magistrate to make further enquiry, and recommit if he saw sufficient grounds. No. 290, 2d April 1818, ... I. 111

11. The appeal from the conviction of a British subject by a magistrate in his capacity of justice of the peace, under 53 Geo. III. cap. 155, lies to the Supreme Court, and not to the court of circuit. [*The appeal will now lie under Act IV.* 1843, *to the session judge.*] No. 340, 25th May 1821,..... I. 139

12. The provincial court have power to rescind the order of a magistrate for the suspension of one of his officers, pending an enquiry into his conduct; though they should use this power with discretion. They may also receive and act upon petitions from suspended officers forwarded by the dawk, provided they

be written on stampt paper. No. 344, 13th July 1821, ... I. 141

13. A judge on circuit is not precluded from calling for and revising the proceedings of a magistrate, by the fact of a former judge on circuit having seen the calendar without calling for them; but the final orders should be passed by the court collectively. No. 357, 31st October 1823,..... I. 148

14. A single judge of circuit cannot suspend the execution of a magistrate's sentence until the court collectively record their judgment. No. 383, 29th April 1825, ... I. 158

15. A single judge of circuit cannot fine the magistrate's treasurer; he should refer the case to the magistrate, and, if dissatisfied with the mode in which he disposes of it, bring the case under the cognizance of his colleagues for correction. No. 387, 27th May 1825, ... I. 160

16. Though no individual has a *right of appeal* to the court of circuit after the expiration of one month from the date of the magistrate's order, *calculated agreeably to the rule contained in Clause* 10, *Section* 8, *Regulation XXVI.* 1814; *(See Construction* 1332, *No.* 52,) and though the court of circuit is not competent to receive a petition of appeal after the expiration of that period, without due cause being assigned: yet the courts of circuit are not only authorized, but enjoined, under the general powers vested in them by Clause 1, Section 12, Regulation XXV. 1814, to call for the magistrate's proceedings in any case in which they may see reason to presume a failure of justice, without reference to the source from whence their information is derived. No. 437, 10th November 1826, ... I. 183

17. Two judges of circuit are at all times competent to direct a magistrate to suspend execution of his order, and direct the release of a prisoner on bail, when justice may appear to require the measure; whether they may or may not have examined the proceedings on which the order is founded. No. 489, 12th December 1828, ... I. 207

18. A petitioner is not entitled to have his petition of appeal, forwarded by dawk, attended to, though the court may call for the magistrate's proceedings, from whatever source the information arrives. No. 513, 17th July 1829,..... I. 218

19. Section 3, Regulation II. 1829, does not rescind the rule contained in Section 5, Regulation III. 1821, and an appeal may be admitted from the order of a magistrate, though more than 30 days have elapsed from the date thereof, if it can be proved that the petitioner was prevented by circumstances beyond his control from presenting his petition within the prescribed period. [*But see Construction* 1332, *No.* 52.] The appellate court will judge whether the delay is sufficiently accounted for. No. 521, 4th September 1829, ... I. 222

No. 697, 1st June 1822,..... II. 45

No. 730, 2d November 1832,..... II. 62

20. The Construction of Clause 5, Section 17, Regulation XVII. 1816, in the Circular Order, Nizamut Adawlut, 8th April 1818, [See Construction 940,] cannot be considered as barring an appeal of a native officer from a conviction of a specific offence. No. 573, 17th September 1830, ... I. 204

21. The appeal from the order of the magistrate of Sylhet, attaching lands in his district on a requisition of the magistrate of Dacca Jelalpoor, lies to the commissioner to whom the former is subordinate. No. 625, 25th February 1831, ... II. 4

22. The commissioner calling for explanation in a criminal case decided by a magistrate, is competent to direct the prisoner sentenced to be admitted to bail, until a final order shall have been passed by the commissioner. No. 657, 2d September 1831,... II. 26

23. Though a party may have lost *his right of appeal* by being unable to shew sufficient cause for the delay, the commissioner is competent, under the general powers vested in him, to reverse the magistrate's order, if illegal. [*See infra, No.* 52.] No. 730, 2d November 1832,..... II. 62

24. A commissioner may direct a magistrate to admit a party to appear and answer by attorney, if he see sufficient reason, without calling for the proceedings. No. 730, 2d November 1832, ... II. 62

25. A commissioner should not correspond by letter with a party appealing from the order of the magistrate, nor furnish him with copies of the magistrate's explanations; he should require the appellant to make his application on stampt paper, and, after calling on the magistrate for any explanation of his proceedings which may appear necessary, proceed to determine the question at issue; leaving the appellant to apply in the usual manner for copies of any papers he may wish to have. No. 818, 23d August 1833, ... II. 120

26. An appeal from the order of a magistrate fining an European British subject does not lie to the commissioner, though the magistrate be not a justice of the peace. [*Under Act IV.* 1843, *the appeal now lies to the session judge.*] No. 900, 12th September 1834,..... II. 183

27. The provisions of Clauses 4, 5, 6 and 7, Regulation XVII. 1816, having been superseded as regards police officers of whatever denomination, without reference to the amount of their salaries, appeals from orders for their dismissal may be received by the commissioners [*or, since the enactment of Act XXIV.* 1837, *by the superintendent of police, if one has been appointed,*] from any police officer, whether his salary be above or below 10 rupees a month. No. 907, W. C. 10th October, C. C. 7th November 1834,..... II. 185

28. The Circular Order, Nizamut Adawlut, of 8th April 1818, declaring the magistrate's orders, for the appointment and removal of native officers receiving a salary not exceeding 10 rupees, final, remains in full force in regard to all such officers, not

being police officers, who, under Section 8, Regulation XI. 1831, may appeal to the commissioner [*or, since the enactment of Act XXIV.* 1837, *the superintendent of police. Circular Order, Nizamut Adawlut, of* 16*th September* 1842, *declares this construction superseded, as far as regards officers attached to jails, by Act XXXI.* 1841, *Section* 2 *of which renders all orders passed by magistrates in other than criminal trials appealable to the session judge*]. No. 940, C. C. 27th March, W. C 23d January 1835, ... II 205

29. A person evading execution of a magistrate's sentence is not thereby debarred his right of appeal: and the appellate court is competent to suspend execution of the magistrate's sentence pending the appeal No. 941, W. C. 3d April, C. C. 24th April 1835, II. 205

30. A session judge is competent to direct the re-apprehension of a person charged with a criminal offence who may have been acquitted by the magistrate, and sentence him to imprisonment after hearing his defence. [*Superseded by Section* 4, *Regulation XXXI.* 1841]. No. 986, W. C. 6th November, C. C. 4th December 1835, ... II. 234

31. It is the duty of a session judge to call for any case, the order passed in which may, on a revision of the monthly statements, appear to him to be of questionable propriety. [*But see Act XXXI of* 1841]. No. 986, W. C. 6th November, C. C. 4th December 1835, ... II. 234

32. The appeal from the order of a magistrate requiring a person to enter into a moochulka or recognizance to keep the peace under Section 4, Regulation IV. 1825, will lie to the sessions judge, provided the order was passed in a regular criminal trial; and such appeals should be received at all times, whether the judge be sitting in the sessions court or not. If the magistrate's order was passed on the report of a police officer, or other miscellaneous proceeding, the appeal would lie to the commissioner. [*By Section* 5, *Act XXIV.* 1837, *the appeal in the latter case also is cognizable by the session judge, and by Section* 6 *his order thereon is made final, so that no subsequent appeal lies to the Nizamut Adawlut, as there would have been in the former case prior to the enactment of Act XXXI.* 1841, *which makes the session judge's order, passed in appeal from the magistrate's order, final.*] No. 1031, C. C. 5th August, W. C. 26th August 1836, ... II. 271

33. The civil judge having made over a case to the magistrate, who convicts and punishes, the appeal from the magistrate's order would lie to the judge in his capacity of session judge; his having made over the case not preventing him from taking up the appeal. No. 1033, C. and W. C. 12th August 1836, ... II. 272

34. A session judge or commissioner, in his appellate capacity, may call for an English report from the magistrate. No. 1071, W. C. 3d February, C. C. 3d March 1837, ... II. 296

35. There is no law, which positively requires that an appeal from the order of a magistrate shall be accompanied by a copy of the proceeding or decision appealed from. No. 1081, W. C. 17th March, C. C. 21st April 1837, ... II. 303

36. A case of bribery and corruption against a police officer is cognizable by the session judge, who may receive appeals in similar cases, and direct the magistrate to commit a case of bribery which he may have thrown out. [*But see Section* 4, *Act XXXI.* 1841.] No. 1134, C. C. 2d March, W. C. 16th February 1838, ... III. 6

37. The power of hearing appeals from the jailor and other subordinate officers of the jails is vested in the session judge. No 1142, C. and W. C. 23d March 1838, ... III. 10

38 The magistrate's acts in the management of furries are subject to the control of the superintendent of police, and it is not competent to the session judge to receive appeals from the magistrate's orders in such matters. No. 1144, C. and W. C. 6th April 1838, III. 11

39. Sections 5 and 7 of Act XXIV. 1837, are considered in force in those districts, in which the whole administration of criminal justice has been transferred under Act VII. 1835, from the commissioners to the session judges, whether a superintendent of police has been appointed or not. Consequently all appeals from the orders passed by a magistrate in any judicial proceeding whatever, including cases coming under Regulation XV. 1824, [*or Act IV.* 1840,] lie to the session judge, and not to the commissioner, and the former officer should receive and forward to the Nizamut Adawlut the statements hitherto submitted and forwarded by the latter. No. 1145, W. C. 6th April, C. C. 27th April 1838, ... III. 11

40. A session judge is competent at any time to suspend a magistrate's order in cases under Regulation XV. 1824, [*or Act IV.* 1840,] pending the decision of the case in appeal. No. 1157, W. C. 6th July, C. C. 3d August 1838, ... III. 17

41. When any case decided by a magistrate may appear to a session judge not to have been sufficiently investigated, or further enquiry may be practicable or requisite for the ends of justice, such enquiry must, according to Section 22, Regulation IX. 1807, be instituted by the magistrate, who will communicate the result thereof to the session judge. No. 1169, C. C. 31st August 1838, ... III. 27

42. It is competent to the session judge, on sufficient grounds, to order the magistrate to replace on his file a case struck off on default. No. 1169, C. C. 31st August 1838, ... III. 27

43. A sudder ameen is not entitled to appeal from the decision of a magistrate in a case originally decided by the former, the right of appeal possessed by the dissatisfied party being sufficient for the ends of justice. No. 1185, C. C. 19th November, W. C. 19th October 1838, ... III. 34

44. An order passed by a magistrate to prevent persons going about at night after a fixed hour is appealable to the session judge. No. 1239, C. C. 19th July, W. C. 20th September 1839, ... III. 60

45. The appeal from the order of a magistrate, requiring a zumeendar to provide a building for a residence of such police officers as may be stationed on his estate, lies to the session judge. No. 1247, C. C. 6th September, W. C. 27th September 1839, ... III. 64

46. Appeals from the orders of a magistrate enforcing the penalties against landholders, farmers, or their local managers, for not keeping up dawk establishments under Clause 5, Section 10, Regulation XX. 1817, lie to the session judge, and not to the superintendent of police. No. 1307, C. C. 30th July, W. C. 20th August 1841, ... III. 82

47. All criminal appeals pending at the date of the promulgation of Act XXXI. 1841, must be disposed of with reference to the provisions of that Act. No. 1318, W. C. 28th January, C. C. 11th February 1842,..... III. 85

48. The words "sentence or order" in Act XXXI. 1841, do not refer to interlocutory orders in cases under trial, and the provisions of the Act do not preclude the interference of the higher with such intermediate orders of the lower courts. No. 1322, W. C. 18th March, C. C. 1st April 1842, ... III. 86

49. All appeals from a joint magistrate of whatever powers are appealable, under Act XXXI. 1841, exclusively to the session judge. Construction 858 (see "Joint magistrates," No. 3) is consequently no longer in force. No. 1326, W. C. 12th February, C. C. 26th March 1842,..... III. 87

50. Supposing a party to appeal, the amount of whose punishment clearly gives him that right, the session judge cannot interfere with another sentence in the same case which falls within *the limitations prescribed by Sections* 8 *and* 9, *Regulation IX.* 1793. No. 1330, C. C. 26th March, W. C. 20th May 1842,..... III. 88

51. If a party having an undoubted right to appeal, fail or neglect to do so, a person whose punishment falls within the limitations specified, cannot be permitted to appeal. No 1330, C. C. 26th March, W. C. 20th May 1842, ... III. 88

52. Appeals under Act XXXI. 1841, are not admissible unless preferred within one month from the date of sentence or order: in this respect the law leaves no discretion. No. 1332, C. C. 1st April, W. C. 28th April 1842,..... III. 88

53. It rests with the magistrate to determine what is a "petty offence," and the measure of punishment, provided he do not exceed the limitation prescribed by Sections 8 and 9, Regulation IX. 1793, and Sections 8 and 9, Regulation VI. 1803; consequently no appeal will lie to the session judge in cases when the magistrate has passed a sentence within that limitation, for an offence for which a severer punishment might be passed under the regulations No. 1353, W. C. 25th July, C. C. 26th August 1842,..... III. 95

54 The order of a magistrate inflicting a fine not exceeding 200 rupees, under the express condition specified in Section 8, Regulation IX 1793, [that the offender be a *sudder malgoozar* paying an annual revenue to Government of more than 10,000 rupees; or *aimadar* paying a quit revenue to Government exceeding 500 rupees per annum; or a proprietor of *lakheraje* land the annual produce of which may be above 1,000 rupees,] is not appealable: but it is incumbent on the magistrate, in passing an order for a fine of above 50 rupees under that enactment, to set forth that the person fined is in the condition mentioned, and in the absence of such declaration on the part of the magistrate, any order of his directing the payment of a fine above 50 rupees is *primâ facie* appealable. No. 1361, C. C. 9th August, W. C. 9th September 1842,..... III. 97

55. An appeal from decisions and orders of a superintendent of police in the Governor General's camp appointed under Act XXVI. 1836, is cognizable by a session judge, in the same manner and under the same restrictions as appeals from the decisions and orders of a magistrate, or other officer empowered to try criminal cases, are admissible No. 1370, W. C. 17th March, C C. 31st March 1843,.....III. 101

MAGISTRATES, POWERS OF.

1. A magistrate deeming the sentence he was competent to pass under Section 19, Regulation IX. 1807, on two convicts who assaulted a traveller, insufficient, was told that he should commit them for trial to the court of circuit No. 85, 3d April 1811,...I 20

2. A magistrate cannot receive complaints concerning marriage; they must be brought in the civil court No. 148, 31st March 1814, ... I. 46

3. A magistrate cannot punish, for having a forged bank note in his possession, a person who has been tried and acquitted by the court of circuit on the charge of uttering the said note knowing it to be forged. No. 361, 26th March 1824, ... I. 150

4. Nor can he punish, for having in his possession counterfeit coin, a person acquitted by the court of circuit of uttering the said coin with intent to defraud. No. 362, 26th March 1824, ... I. 150

5. A magistrate cannot fine a collector for refusing to obey his orders: for Section 36, Regulation XIV. 1793, Section 12, Regulation VI. 1795, and Section 39, Regulation XXVII. 1803, apply only to the civil judges. No 364, 23d April 1824,... I. 151
No. 414, 17th March 1826,..... I. 174

6. A magistrate cannot proceed under Regulation IV. 1820, against a witness who refuses to be sworn before a court martial. [*Superseded by Section* 6, *Act XI.* 1841.] No. 401, 18th August 1825, I. 168

7. A magistrate cannot sentence a person for withholding information of a murder, to fine and im-

prisonment, but only to a fine not exceeding 200 rupees, commutable, if not paid, to imprisonment for six months. No. 485, 4th July 1828, ... I. 206

8. A magistrate cannot make a person repay, or restore money, or other property, obtained by false pretences or extortion, the property or money not having come into the hands of the court; nor can he compel the offender to execute a *moochulka*, binding himself in a penalty to repay or restore the same. No. 616, 30th December 1831, ... I. 255

9. A magistrate is authorized to release a person charged with murder, if he consider the homicide accidental, or justifiable under the Mahomedan law; and if he is doubtful as to the law, he should apply to the law officer for his assistance. No. 617, 30th December 1831, ... I. 255

10. Held that it is highly irregular and improper in a magistrate to issue a *perwaneh* to the Government pleader, directing him to communicate with the law officer, in a matter relating to a *futwa* delivered by him in a suit before the court of circuit. No. 631, 25th March 1831, ... II. 7

11. A magistrate is competent to entertain and investigate a charge of corruption, preferred against an officer on the establishment of the commissioner of revenue and circuit. No. 649, 22d July 1831, ... II. 15

12. A magistrate having sentenced a prisoner to imprisonment with labor in irons for two years, on a conviction of having passed an unfinished and unsigned note of the Indian Bank and thereby fraudulently obtained possession of cloths valued 100 rupees, the sentence was held to be illegal and quashed, and the magistrate directed to commit the prisoner for trial before the session judge. No. 684, 16th March 1832, ... II. 38

13. A magistrate was considered to have acted properly in refusing to interpose his authority to compel the delivery of a betrothed woman to a petitioner. No. 725, 26th October 1832, ... II. 60

14. A magistrate has no authority to interfere to regulate the exchange of copper into silver. No. 751, 4th January 1833, ... II. 76

15. A magistrate cannot receive a charge of bribery against a moonsiff, until the civil judge, after the requisite preliminary enquiry, shall give his sanction to the prosecution. No. 781, C. C. 12th April, W. C. 17th May 1833, ... II. 95

16. Magistrates are competent to remove chowdrees of trades and professions. No. 816, W. C. 23d August, C. C. 27th September 1833, ... II. 119

17. A magistrate cannot decide a case of bribery against a salt darogah, on evidence taken by himself in his capacity of salt agent. No. 817, C. C. 23d August 1833, ... II. 119

18. A magistrate has no authority to interfere with a view to restore to a petitioner a child whom he alleges to be his absconded slave. No. 887, W. C. 27th June, C. C. 18th July 1834, ... II. 172

19. Magistrates and other officers who were not liable to prosecution in the Company's courts for damages, for acts done in their official capacity, prior to the enactment of Act XI. 1836, have not been rendered liable by that Act. No. 1051, Government letter, dated 10th October 1836, ... II. 283

20. A magistrate is not competent to interfere in disputes between parents respecting the guardianship of a child. No. 1060, W. and C. C. 9th December 1836, ... II. 289

21. A magistrate cannot compel a *zumeendar* or other landholder to repair the public road passing through his village or estate. No. 1072, W. C. 3d February, C. C. 3d March 1837, ... II. 297

22. A magistrate is not competent to fine or imprison *muhajons* or *shroffs*, who may be in the habits of demanding illegal *batta* on Company's rupees. No. 1156, C. and W. C. 29th June 1838, ... III. 17

23. A magistrate may authorize a darogha to detain at the thanah beyond the period of 48 hours, a party accused of a criminal offence, when the measure may appear to him absolutely necessary for the ends of justice. This power should be exercised with great discretion and only on the strongest grounds. No. 1167, C. and W. C. 17th August 1838, III. 25

24. Though a magistrate has no authority to direct the search of a house for the discovery of contraband opium *as such*; yet he may search for the discovery of opium or any other deleterious drug, which, from information before him, he may have reason to believe has been used as an instrument of death, and of which he considers it necessary for the ends of justice, that a discovery should be effected. No. 1241, W. C. 16th August, C. C. 9th September 1839, ... III. 61

25. A magistrate is not authorized to call upon a zumeendar to provide a building for the residence of such of the police as may be stationed on his estate, under Section 8, Regulation XVII. 1816, No. 1247, C. C. 6th September, W. C. 27th September 1839, ... III. 64

26. Magistrates are competent to punish the offence of using short weights as a fraud under the general regulations, but they cannot prescribe a current standard of weight. No. 1274, W. C. 28th February, C. C. 27th March 1840, ... III. 71

27. A magistrate is competent, in a case of affray, to sentence a party convicted, in addition to imprisonment for one year and two months, in default of payment of a fine of 50 rupees, under Regulation VIII. 1828, to furnish security to keep the peace for one year, or in default to be imprisoned for that period under Regulation IV. 1825. No. 1290, C. C. 8th January, W. C. 8th February 1841, ... III. 78

28. A magistrate is competent to punish as a misdemeanor, under the general powers vested in him by Section 19, Regulation IX. 1807, persons plying boats contrary to orders in the vicinity of a Government ferry. No. 1305, C. C. 16th July, W. C. 20th August 1841, ... III. 82

29. It is imperative on a magistrate under the provisions of Act XI. 1835, [regarding printing presses,] to sentence any person convicted of a breach of that law to imprisonment in addition to a fine; the fine is not commutable to a further period of imprisonment, but must be levied according to Act II. 1839. No. 1325, C. C. 11th February, W. C. 11th March 1842, ... III. 86

MAHOMEDAN LAW.

1. Held in a certain case that the court were not bound by the Mahomedan law, which declared that a person could not sell property not in his possession. No. 138, 11th December 1813, ... I. 41

2. A sudder ameen should decide a suit in which the parties are Mahomedans according to the Mahomedan law, taking a futwa from the law officer if necessary. No. 424, 30th June 1826, ... I. 178

MAINTENANCE OF WIVES AND CHILDREN.

1. On the complaint of a wife against her husband for refusing to support her, the magistrate cannot require the husband to furnish security to support her; he should require the husband to enter into an engagement in writing to provide for his wife, and should punish any, and every subsequent breach of such engagement, distinctly complained of and proved, as a misdemeanor, by imprisonment not exceeding one month. No. 992, 18th December 1835, ... II. 239

2. The provisions of Section 4, Regulation VII. 1819, for compelling a person to provide for his wife and children, are not applicable to European British subjects as defendants. No. 1141, C. and W. C. 23d March 1838, ... III. 10

3. The evidence on oath of the mother of an illegitimate child on her complaint against the alleged father for refusing to provide for it, is *primâ facie* good as far as it goes, but should be sifted and weighed as any other testimony, and tested as far as practicable by any circumstantial evidence that may offer. No. 1163, C. C. 3d April, W. C. 13th July 1838, ... III. 20

MALICIOUS CHARGES.

1. On the 24th October 1811, the Court, by Construction 94, recorded their opinion that a magistrate is empowered to punish malicious and unfounded charges with imprisonment not exceeding six months, and a fine not exceeding 200 rupees, commutable, if not paid, to a further period of imprisonment not exceeding six months, adding that they understood Section 5, Regulation VII. 1811, to provide for an extension of the period of imprisonment limited by Section 10, Regulation IX. 1793, leaving the provisions of fine, as they stood, in full force. But on the 31st August 1827, they, by Construction 459, recorded their opinion that the above mentioned construction should not be adhered to—and that a person convicted of this offence may be imprisoned for a period not exceeding six months and fined in any sum not exceeding 50 rupees, or if he be a proprietor of land paying more than 10,000 rupees to Government, or of *ayma* land paying more than 500 rupees, or of rent-free land yielding more than 1000 rupees, in any sum not exceeding 200 rupees. No. 94, 24th October 1811, ... I. 23

No. 459, 31st August 1827, ... I. 194

2. A false deposition on oath or solemn declaration, containing a deliberate and specific charge which the deponent knows to be unfounded, and which appears also to be malicious, is within the provisions of perjury, notwithstanding the provisions for false and malicious charges contained in Section 5, Regulation VII. 1811. No. 233, 29th January 1816, ..I. 77

3. A commissioner of circuit is not at liberty, in a case of commitment made by a magistrate, to punish the prosecutor for a groundless and malicious complaint, though he is doubtless competent to commit him and his witnesses for perjury, in the event of his seeing reason to believe that a false accusation has been preferred on oath, and an attempt made to substantiate it by false evidence. No 528, 30th October 1829, ... I. 224

4. The commissioner having, in reply to the above, brought to the Court's notice a construction of the 12th May 1809, "that as the magistrates are expressly authorized by Section 10, Regulation IX. 1793, to punish litigious, vexatious and groundless complaints, the Court are of opinion that a similar power may be exercised by the courts of circuit in particular cases requiring it," was informed that the Court did not consider this construction at variance with that of the 30th October 1829; the former having reference to appealed prosecutions brought by private individuals before the court of circuit at the sudder station; the latter to cases of commitment tried before a court of circuit, in which the very fact of commitment affords sufficient presumption that the complaint was not groundless or malicious. No. 530, 27th November 1829, ... I. 224

5. The power vested in magistrates of punishing groundless and malicious complaints by imprisonment not exceeding six months, should be exercised with the greatest discretion; and the commissioners of circuit, under the general powers vested in them, can receive appeals from the magistrate's decision, and pass such orders therein as they may think just and proper. No. 610, 25th November 1831, ... I. 253

6. The commissioner of circuit was informed that he was not competent, in that capacity, to fine a person under Section 10, Regulation VIII. 1825, which provides for the punishment of persons bringing false and malicious charges against an European

public officer; but that, as regards the complaint against the nazir and peons of the magistrate's office, he possessed, as superintendent of police, the powers of magistrate in the punishment of false and malicious complaints. No 754, C. C. 1st February 1833, II. 80

7. If, in a petition presented to a session judge, on the part of an European British subject, from the decision of a magistrate, the public character of that officer is calumniously and maliciously aspersed, the session judge may punish the offender as contempt of court. [*This Construction has been superseded by Act XXX.* 1841.] No. 1098, C. C. 14th July, W. C. 4th August 1837,..... II. 313

8. A person preferring a false and malicious complaint before a darogha, but not sworn to the truth of it, is not liable to punishment under the provisions of Section 5, Regulation VII. 1811. No. 1189, C. and W. C. 14th December 1838, ... III. 40

9. A merely litigious appeal is not punishable by a magistrate, but if a prosecutor who has been dismissed by a subordinate court persist in bringing before a magistrate a charge evidently malicious or greatly exaggerated, it would be competent to that functionary to punish him under Section 5, Regulation VII. 1811. No. 1208, C. C. 1st April, W. C. 21st June 1839,..... III. 49

10. A magistrate is not competent to award punishment for a false complaint made before the revenue authorities; no case connected with such complaint having originated in his court; his power being restricted to the cognizance and disposal of those cases only that may be primarily investigated before him. No. 1220, W. C. 31st May, C. C. 5th July 1839,..... III. 54

MANAGER OF ATTACHED ESTATES.

See "Attachment," Nos. 1, 3, 4, 5, 7, 10.

MANAGER OF THE ESTATE OF AN ABSENTEE.

1. Held that a person vested with the management and superintendance of the property of an absent party, under a document authorizing him to defend all suits, and appoint and remove *moktears* or agents, and vakeels, may also appoint special agents under Regulation XII. 1833. No. 1268, W. C. 20th December 1839, C. C. 20th March 1840, ... III. 70

MANAGER UNDER THE COURT OF WARDS.

See "Guardians and Minors," *passim.*

MARRIAGE.

1. All suits and complaints regarding marriage must be heard in the civil, and not in the criminal courts. No. 148, 31st March 1814,..... I. 46

2. A case of the clandestine marriage of a ward (also a minor) placed under a guardian appointed under Regulation I. 1800, is not cognizable in the criminal court. No. 637, 27th May 1831, ... II. 9

MERITORIOUS SERVICES.

See "Commission on Stolen Property," Nos. 1 and 2.
See "Rewards," Nos. 2, 3, 4, 5.

MESNE PROFITS.

See "Rent-free Lands, Resumption of," No. 26.

MILITARY CANTONMENTS, COURTS, &c. CIVIL.

1. Native invalids attached to the invalid battalion [who are understood to be employed as guards and sentries] must be considered as coming within the description in Section 10, Regulation XV. 1816, of "native officers and soldiers entertained in regular corps, and on the actual strength of the army on the establishment of Fort William," and consequently entitled to the benefit of the regulation in question. No. 264, 29th January 1817, ... I. 92

2. The decision of a sudder ameen against a person amenable to military law, the cause of action being under 200 rupees, was considered null and void, as the suit was not cognizable by the civil authorities. The plaintiff was left to prefer his suit to the military court of requests. No. 498, 27th March 1829, ... II. 212

3. European British subjects registered as attached to bazars and residing in cantonments, British soldiers, officers, &c. are amenable to the military court of requests for sums not exceeding 400 rupees, and to the civil courts in suits exceeding that sum. European foreigners, native soldiers, natives registered and residing in cantonments, are subject to the military court of requests in suits not exceeding 200 rupees, and to the civil courts in those exceeding that sum. No. 498, 27th March 1829,..... I. 212

4. Civil servants, merchants, and others who reside within the limits of a cantonment, though totally unconnected with the army, are subject during their actual residence to the jurisdiction of the military court of requests, and to no other court, in cases of personal action for debt. The residence or non-residence of a party within the jurisdiction of the court of requests, or of the Company's courts, must be determined by the circumstances of each case as it occurs. No. 876, W. C. 26th March, C. C. 18th April 1834,..... II. 165

5. The salary of a military officer cannot be attached in execution of a decree of court. No. 902, W. C. 26th September, C. C. 24th October 1834, ... II. 183

6. Nor can the pay of a sepoy, but the decree-holder may proceed against his person and property. No. 1175, C. C. 21st September, W. C. 31st August 1838,..... III. 29

7. A civil court cannot entertain a suit to contest the award of a military court of requests. No. 1291, W. C. 13th February, C. C. 19th March 1842, III. 78

8. The provisions of Regulation XV. 1816, are applicable to native officers and soldiers of irregular corps on service in Affghanistan, i. e. on foreign service. No. 1335, W. C. 28th April, C. C. 20th May 1842,..... III. 90

MILITARY CANTONMENTS, COURTS, &c. CRIMINAL.

1. By the rules contained in Sections 15, 16, and 17, Regulation XX. 1810, the military authority in cantonments extends only to petty offences committed within the limits of a cantonment by a person, who is a retainer of the army, the servant of an officer, or registered as attached to the bazar; the more grievous offences are cognizable by the magistrate exclusively, by whomsoever perpetrated, whether within or without the limits of a cantonment. No. 392, 10th June 1825, ... I. 164

2. A magistrate cannot proceed under Regulation IV. 1820, against a witness who refuses to be sworn before a court martial. [*Superseded by Section* 6. *Act XI.* 1841.] No. 401, 18th August 1825, I. 168

3. A sepoy belonging to a detachment at Buxar, having shot and killed a havildar, while mounting guard at the fort gate, held that the case is cognizable by the civil authorities. No. 760, 15th February 1833, ... II. 84

4. The commanding officer of a military cantonment cannot take the information of a prosecutor and witnesses on oath; he should arrest the offender, if found within the limits of cantonment, and deliver him over to the magistrate. No. 1044, W. C. 9th September, C. C. 14th October 1836, ... II. 279

5. A magistrate is not competent under Regulation XX. 1810, to pull down houses in a military cantonment, and eject their possessors merely on the requisition of the commanding officer. No. 1119, C. C. 15th December, W. C. 29th December 1837, ... II 332

MILITARY FORCE.

1. When a magistrate applies for the aid of a military force, he is to transmit to the court of circuit, a copy of his report to Government; and the court are to report their sentiments to Government, if circumstances appear to require it; but not to issue any direct orders to the magistrate. [*See also Circular Orders, Nizamut Adawlut, 17th December* 1830, *No.* 68, *vol. II. and 2d February* 1838, *No.* 7, *vol. III. para.* 4.] No. 40, 4th July 1808, ... I. 10

MILITARY PURPOSE, SUPPLY OF CARRIAGE FOR.

See "Carriage supply of, for Troops and Travellers," *passim.*

MILITARY STORES.

1. Charcoal is not considered to be a military store liable to seizure and confiscation under Section 31, Regulation IX. 1810. No. 84, 3d April 1811, I. 20

MINORS.

See "Guardians and Minors," *passim.*

MINUTES OF THE JUDGES OF SUDDER DEWANNY AND NIZAMUT ADAWLUT.

1. Minutes recorded by the judges of the court on a question of general importance and submitted to Government, are not to be considered as public documents: consequently copies should not be granted to private individuals on their application. No. 718, 21st September 1832,..... II. 56

MISCELLANEOUS CASES, CIVIL.

1. Principal and other sudder ameens may be employed in the adjustment of accounts, or in the investigation of disputes, or special matters of account, fact, or usage, connected with the execution of decrees passed in the judge's court. No. 761, W. C. 22d February, C. C. 15th March 1833, ... II. 85

No. 815, W. C. 23d August, C. C. 1st November 1833, ... II. 119

2. The spirit of Clause 2, Section 4, Regulation XXVI. 1814, which authorises reviews of judgment, is applicable to miscellaneous cases. No. 1249, C. C. 13th September, W. C. 4th October 1839, III. 64

MISCELLANEOUS CASES, CRIMINAL.

1. A "criminal trial" involves a judicial investigation on a criminal charge and a criminal award, and is appealable to the commissioner [or session judge] and eventually to the Nizamut Adawlut. In all other cases which are designated "cases of a miscellaneous nature other than criminal trials," no appeal lies to the Nizamut Adawlut: the appeal lies to the commissioner [or session judge] with a reservation of a further appeal to the Governor General in Council, in those cases in which the party aggrieved may prefer that course instead of resorting immediately to the civil courts, as in cases of forcible dispossession or other actionable cause; or in which the nature of the case may not admit of remedy by civil action, as in cases of alleged injustice towards native officers of Government, police, or ministerial, by the magistrates or others to whom they are subordinate. For the one,

the ordinary remedy by suit is provided: for the other, an appeal to Government. [*Superseded. See Act XXIV.* 1837, *and Act XXXI.* 1841.] No. 914, W. C. 25th July, C. C. 7th November 1834, ... II. 188

2. The magistrate, on the report of a thannadar that an affray was to be apprehended between the *zumeendars* and mortgagees of a village, caused them to execute *moochulkas* to keep the peace. An affray occurring, the magistrate levied the penalty, and the commissioner confirmed the order. The *zumeendars* preferring an appeal to the Nizamut Adawlut, it was held that the case was a miscellaneous one in which no appeal lay to the Nizamut Adawlut. [*For the present law of criminal appeal, see Act XXXI. of* 1841.] No. 954, W. C. 29th May, C. C. 26th June 1835, ... II. 213

3. On a charge of theft by a mistress against her servant, the magistrate acquitted the latter and ordered the restoration of the property found upon him. The session judge in appeal confirmed the order for acquittal, but directed that the property should be delivered to the mistress. The Nizamut Adawlut on appeal by the servant, reversed the order of the session judge and confirmed that of the magistrate. The session judge, with reference to Section 3, Regulation IX. 1831, and Section 6, Act XXIV. 1837, denied the jurisdiction of the court. Held that had the mistress applied to the magistrate to compel the servant to give up the property, and on the magistrate's refusal to interfere the session judge had ordered the delivery in appeal, his view of the case not being open to the Court's revision, would have been more correct: but as the case came before the magistrate as a criminal trial, and the accused was considered entitled to his release, the magistrate very properly ordered the restoration of the property from whom it was taken by the police. The case therefore was not a miscellaneous one, but involved the carrying out an order in a criminal trial, which order, directing the release of the accused, required that matters should be placed in the same position they were in prior to the interference of the police. [*See note above, No* 2.] No. 1275, W. C. 6th March, C. C. 3d April 1840, ... III. 71

MITIGATION OF SENTENCE.

1. The Nizamut Adawlut are competent to mitigate a sentence on judicial grounds apparent on the record of the case, and strictly connected with it. If the grounds of mitigation be personal to the prisoner, the prerogative of mercy rests with Government. No. 350, 30th September 1822, ... I. 144

MOCURRAREE.

1. Section 16, Regulation VIII. 1793, relates to *sudder mocurrereedars*, holding *mocurrerce* farms from Government to the exclusion of the proprietors of the land; and Clause 5, Section 29, Regulation VII. 1799, relates to under tenants holding the lease of lands at a fixed rent from the proprietor. No. 45, 21st December 1808, ... I. 11

MOKHTARS AND MOKHTARNAMEHS.

1. Copies of *mokhtarnamehs* filed previously to the promulgation of Regulation XVI. 1824, must be written on a stamp of the same value as the original under the regulations in force when such original instrument was executed. No 412, 27th January 1826, ... I. 173

2. *Mokhtarnamehs* filed in the courts of the moonsiffs are not liable to the stamp duty prescribed by Regulation XVI. 1824, [*nor Regulation X.* 1829] No. 416, 14th April 1826, ... I. 174

3. *Vukalutnamehs* executed by duly authorized *mokhtars* are equally as good and valid as those executed by the parties themselves. No. 417, 28th April 1826, ... I. 175

4. Though strictly speaking no suit can be legally filed but by the parties or their *vakeels* duly authorized, [*altered by Regulation XII. of* 1833,] the Court held that certain suits filed by *mokhtars* might be tried and decided, provided the parties attended in person or appointed a *vakeel* to conduct them. No. 429, 4th August 1826, ... I 180

5. The provisions of Sections 4 and 6, Regulation IX. 1807, and Section 2, Regulation II. 1806, clearly recognize the admission of general *mokhtars*; but in admitting or rejecting this description of agent, much must be left to the discretion of the local authority, according to the particular circumstances of each case. No. 512, 17th July 1829, ... I. 217

6. A magistrate is competent to refuse to acknowledge a *mokhtar* in his court, who may have been guilty of any gross misconduct in the execution of his duty in that capacity. No. 607, 18th November 1831, ... I. 252

7. One proved act of gross misconduct is sufficient to warrant the general rejection of the *mokhtar*. No. 809, C. C. 2d August, W. C. 6th September 1833, ... II. 114

8. The mokhtar of an absentee, with general powers of management and superintendance, has a power of attorney which authorizes to defend suits, to appoint and remove *mokhtars* or agents, and specially provides for the appointment of vakeels or pleaders without any specification in regard to the appointment of agents under Regulation XII. 1833. Held that under this power, he may appoint special agents under Regulation XII. 1833. No. 1268, W. C. 20th December 1839, C. C. 20th March 1840, III. 70

MOOCHULKA OR RECOGNIZANCE TO KEEP THE PEACE.

1. A magistrate in taking recognizances, from persons subject to his jurisdiction, in his capacity of

a magistrate of the East India Company, should be guided by the provisions contained in Regulation IV. 1825, ; when it may appear necessary to take such recognizance in his capacity of justice of the peace, the magistrate, if in doubt, should consult the advocate general, through the Secretary to Government in the judicial department. *(Such application should be forwarded through the Sudder Court. See orders of Government 6th February 1843, Circular Orders, Sudder Dewanny and Nizamut Adawlut, 21st April 1843).* No. 446, 9th March 1827, ... I. 188

2. Section 4, Regulation IV. 1825 should not be construed to preclude persons, confined for security to keep the peace, from appealing to the court of circuit at the *sudder* station, when no order may have been passed on his case by the judge on circuit at the sessions preceding. No. 460, 31st August 1827, I 194

3. An assistant to a magistrate vested with special powers under Section 2, Regulation III. 1821, is competent to direct the taking of moochulkas and security under Regulation IV. 1825. No. 529, 20th November 1829, ... I. 224

4. A magistrate is not competent to direct the darogha to require a person to enter into a *moochulka* to keep the peace, before he has been heard in his defence; after he has heard the defence, he may, if necessary, require the party to execute such moochulka in his presence. No. 620, 21st January 1831, II. 2

5. A magistrate having asked whether he could require security to keep the peace from an European beyond the amount of penalty which he is authorized to levy under 53 Geo. III. Cap. 155, Section 105, was referred to the circular order of Government to the commissioners, dated 9th June 1830, which declares that the only proceeding for the forfeiture of recognizances to keep the peace is in the Supreme Court, consequently the amount of the penalty of such recognizances is not affected by the provisions above quoted. No. 826, 6th September 1833, ... II. 125

6. The regulations do not vest the magistrates with a general power to demand security to keep the peace, whenever there may appear grounds to sanction the measure. By Section 3, Regulation IX. 1807, the magistrate is authorized, on a complaint being preferred against an individual, to call upon him to give security to keep the peace, while the charge is under examination. By Clause 11, Section 25, Regulation XX. 1817, police daroghas may, in cases of manifest necessity, require security to keep the peace from a person apprehended, which, as in the former case, is to remain in force, while the charge preferred against him may be under investigation. By Section 2, Regulation IV. 1825, the criminal courts are competent, on the conviction of an individual of any specific offence, to require from him a *moochulka* or penal recognizance to keep the peace, and, in cases of an aggravated nature, to demand security in addition to the *moochulka;* and by Section 4 of the same regulation the magistrates may take *moochulkas* to keep the peace from persons not convicted of a specific offence. No. 831, C. C. 20th September, W. C. 15th November 1833, II. 129

7. The order of a magistrate passed under Section 4, Regulation IV. 1825, requiring a party to enter into a *moochulka* to keep the peace, if passed in a regular criminal trial, is appealable to the session judge. If passed on the report of a police darogha, or in any other miscellaneous proceeding, the appeal would lie to the commissioner of circuit. [*Both orders would now be appealable to the session judge. See Act XXXI. of* 1841.] No. 1031, C. C. 5th August, W. C. 26th August 1836, II. 271

MOOCHULKA OR RECOGNIZANCE TO SECURE ATTENDANCE IN CRIMINAL COURTS.

1. *Moochulkas* and recognizances taken from prosecutors and witnesses by the police, to secure their attendance at criminal trials, may be taken on plain paper. No. 679, W. C. 7th March, C. C. 18th May 1832, ... II. 35

2. *Moochulkas* and recognizances to secure the attendance of defendants in petty cases should be required as seldom as possible: but if it be necessary in any particular case to take such *moochulka*, the stamp must in the first instance be provided by the prosecutor, to be refunded by the defendant at the conclusion of the case, if the magistrate consider it proper to order a refund. No. 1287, C. C. 23d October, W. C. 13th November 1840, ... II. 77

MOONSIFFS.

I. Appointment, Removal, &c. of Moonsiffs.

1. A judge cannot fine a moonsiff for neglect in a larger sum than 20 rupees. In cases of repeated or continued neglect or disobedience, if he consider a fine of 20 rupees inadequate for the offence, he is at liberty to suspend him, and report his conduct for the orders of the superior authorities. No. 667, 13th January 1832, ... II. 31

2. When a vacancy occurs in the office of moonsiff, the recommendation of a successor should be made, under para 8, of the resolution of Government, dated 1st November 1831, through the commissioner of revenue and circuit for the division. [*Under the rules of Government, dated 4th August* 1840, *(Circular Orders, Sudder Dewanny Adawlut, No. 97, vol. III.) persons possessing diplomas of qualification from any of the committees of examination, are entitled to be appointed to vacancies.*] No. 701, C. C. 6th July, W. C. 17th August and 26th October 1832, ... II. 46

3. A magistrate cannot entertain a charge of bribery, corruption, or extortion, against a *moonsiff*,

until the judge shall, after the requisite preliminary enquiry, have given his consent to a criminal prosecution, which should be conducted by the complainant before the magistrate, who would dispose of it as a misdemeanor. Provided, however, that this shall not prevent the judge from directing the Government pleader to prefer a charge of bribery, &c. against a *moonsiff*, and conduct the criminal prosecution on the part of Government, whenever he may deem the measure expedient for the ends of justice. No. 781, C. C. 12th April, W. C. 17th May 1833, ... II. 95

4. A judge is not competent to remove a moonsiff from one station to another without a reference, through the commissioner, to the Sudder Dewanny Adawlut. No. 832, C. C. 27th September, W. C. 18th October 1833,..... II. 130

5. A commissioner has no power to suspend a moonsiff. No. 908, W. C. 10th October, C C. 7th November 1834, ... II 185

6. When a judge sees ground for a criminal prosecution against a *moonsiff* for bribery or other official misconduct, he should not commit the case for trial to the sessions court, but make it over to the magistrate to be disposed of according to law, directing the Government pleader to prosecute. No. 1069, C. and W. C 27th January 1837, ... II 295

II. Powers and Duties of Moonsiffs.

1. Native commissioners are competent to receive and decide upon claims [within the prescribed limitation and instituted before them in the first instance] for the recovery of the amount of an unjust attachment and sale of personal property. No. 103, 21st May 1812, ... I. 27

2. Suits in which the cause of action did not arise within one year previously to the institution of the suit; suits in which the moonsiffs themselves, their dependants, or an European or American, may be a party; also suits which persons may be desirous of instituting *in formâ pauperis*, which are not cognizable by a moonsiff under Regulation XXIII. 1814, may be referred either to the register, or to a sudder ameen. [*All these suits, except those in which they or their dependants are parties, are now cognizable by moonsiffs. See Act VI.* 1843.] No. 219, 17th August 1815,..... I. 71

3. Summary suits for rent are not cognizable by moonsiffs; the provisions of Regulation XXIII. 1814, intending regular suits only. No. 332, 22d December 1820, ... I. 135

4. Suits for the rent of land, and for the value of crops, trees, and fruits and other description of property detached from, and involving no right as to real property, are cognizable by moonsiffs. [By Regulation V. 1831, *moonsiffs are empowered to try suits for real property.*] No. 400, 12th April 1825,..... I. 167

No. 480, 19th April 1828, ... I. 204

5. The penalties leviable from a *zumeendar*, *talookdar*, or other person entitled to receive rent, under Clause 2, Section 51, and Clause 1, Section 63, Regulation VIII. 1793, for undue exaction of rent, or for a refusal to grant *dakhilahs*, or receipts for rent paid, are not of the nature of *personal damages*, such as moonsiffs are prohibited from trying, consequently suits for the recovery of such penalties are cognizable by moonsiffs. [*This prohibition is removed by Section* 8, *Act VI.* 1843.] No. 480, 19th April 1828, ... I. 204

6. There is nothing in the regulations to prohibit a moonsiff from trying three several suits between the same parties, the case being for the sum of 150 rupees, for each of which sums bonds were given on the same day. No. 481, 2d May 1828, ... I. 204

7. *Sudder ameens* and *moonsiffs* are not prohibited from trying suits in which other *sudder ameens* or *moonsiffs*, or their dependants, are parties. No. 692, 18th May 1832, ... II. 43

8. *A ryot* cannot remove his suit from the moonsiff's court, by merely affirming that the land for which the rent is demanded is not liable to rent. The point at issue is, not the validity of the alleged rent-free tenure, but the fact of the ryots having paid, or not paid rent for the preceding year. If this fact be proved by the village accounts, or other legal evidence, the moonsiff will pass a decree for such amount as may appear due, leaving the ryot to establish his right to hold the land as *lakheraj*, by a suit under Section 30, Regulation II. 1819. No. 696, C. C. 25th May, W. C. 6th July 1832, ... II. 45

9 Suits connected with arrears or exaction of rent may be received by *moonsiffs* on quarter stamp, whether instituted by *ryots* or under tenants resisting undue demands, or *zumeendars* or others claiming their just dues. No. 714, C. C. 31st August, W. C. 5th October 1832, ... II. 55

10. *Moonsiffs* may try suits for the rent of *lakheraje* land, *but not for the "property," or proprietory right in such lands.* [*Superseded by Sec.* 8, *Act VI* 1843.] No. 719, C. C. 21st September, W. C. 26th October 1832,..... II. 57

No. 950, W. C. 1st May, C. C. 10th July 1835, ... II. 210

11. Cases in which the collector is a party cannot be referred to a *moonsiff*. [*Superseded by Sec.* 6, *Act VI.* 1843.] No. 801, W. C. 5th July, C. C. 2d August 1833,..... ..... II. 109

12. A *moonsiff* may try a suit brought by a holder against his tenant, to enhance the rent payable by the latter. [*Neshust i jumma.*] No. 811, C. C. 2d August 1833, ... II. 115

13. The moonsiffs cannot entertain suits for the property or possession of rent-free land, even though the circumstance of the land being rent-free or otherwise, be not disputed by the parties. [*Superseded by Section* 8, *Act VI.* 1843.] No. 825, C. C. 6th September, W. C. 4th October 1833,..... II. 125

14. A collector cannot refer a summary suit to a moonsiff to be tried as a regular suit. No. 879, C. C. 11th April, W. C. 2d May 1834, ... II 168

15. Suits for the recovery of damages said to be sustained from not having been allowed to cultivate his land as a *khoodkasht ryot*, or for loss sustained by his land having been kept out of cultivation by the opposition of the defendant having prevented the plaintiff from receiving his customary share of water to irrigate his field, are cognizable by moonsiffs, such damages not being considered of a personal nature. [*Moonsiffs may now take cognizance of suits for personal damages, see Section* 8, *Act VI.* 1843.] No. 919, W. C. 5th December, C. C. 26th December 1834, ... II. 193

16. A suit for a piece of rent-free land and a house situated thereon, under a deed of sale, which includes the purchase money of both house and land is not cognizable by a moonsiff. [*Superseded by Section* 8, *Act VI.* 1843.] No 950, C. C. 1st May, W. C. 10th July 1835, ... II. 210

17. A *moonsiff* cannot fine for a litigious or vexatious suit, but may award damages to the defendant; the decree, unless appealed from, will be executed like other decrees, without reference to the judge. No. 966, C. C. 17th July, W. C. 28th August 1835, ... II. 220

18. Regular suits for indigo, instituted under Regulation VI 1823, in which the amount or value of claim may not exceed 300 rupees, and in which neither party may be an European or American, are cognizable by moonsiffs. [*Moonsiffs may now try suits in which Europeans or Americans are parties. See Section* 8, *Act VI.* 1843.] No. 1092, W. C. 2d June, C. C. 23d June 1837. ..... II. 310

19. Although suits involving indemnificatory claims to an arbitrary amount, of damages in respect to marriage, on account of breach of contract, or in regard to slander on account of loss of character, are not cognizable by moonsiffs; yet a claim on account of a specific loss sustained by expenses actually incurred in prosecuting a marriage, afterwards broken off, would not be included in the prohibitory rule, but should be regarded in the light of any other claim for money or personal property within the competency of a *moonsiff* to decide. [*Moonsiffs may now take cognizance of suits for personal damages. See Section* 8, *Act VI.* 1843.] No. 1257, C. and W. C, 1st November 1839, ... III. 67

20. Held that an *undefended* suit for an instalment below 300 rupees, on a bond for an aggregate sum exceeding that amount; also an *undefended* action for an arrear of rent below 300 rupees, due on lease for a larger sum, are cognizable by a *moonsiff*. No. 1304, C. C. 16th July, W. C. 13th August 1841, ... III. 81

21. The prohibition contained in Clause 2, Section 13, Regulation XXIII. 1814, does not extend to summary suits, and *moonsiffs* are competent to try the fact of possession by an European of land attached by them in execution of decree, in the same manner as they can enquire into the possession of lakheraj land, as ruled by Constructions 798 and 1054. [*Superseded by Section* 8, *Act VI* 1843, *which removes the prohibition against the entertaining by a moonsiff of a suit in which an European is a party.*] No. 1373, C. C. 27th January, W. C. 15th February 1843, ... III. 101

III. Process and Practice in the Courts of Moonsiffs.

1. Notice to defendant in suits pending in the moonsiffs' courts must be served by the plaintiff himself, or through any other person he may choose to employ for that purpose, the remuneration of that person being perfectly voluntary. [*By Section* 5, *Regulation VII* 1832, *moonsiffs are authorized to issue their processes through registered peons*] No. 400, 12th August 1825, ... I. 167

2. *Moktarnamehs* in the moonsiffs' courts are not subject to any stamp duty. No. 416, 14th April 1826, ... I. 174

3. Regulation V. 1831, making no alteration in the rules in force before its enactment, in regard to the issue of the processes of moonsiffs, such processes are to be issued under those rules. [*But see Section* 5, *Regulation VII.* 1832.] No. 701, C. C. 6th July, W. C. 17th August and 26th October 1832, ... II. 46

4. When a defendant in a suit pending before one *moonsiff* resides in the jurisdiction of another, it is sufficient to have the process backed by the moonsiff of the division in which the defendant resides. No. 701, C. C. 6th July, W. C. 17th August and 26th October 1832, ... II. 46

5. In case of the resistance of the process of a *moonsiff*, he should report the case for the orders of the judge, as required in the instances provided for by Sections 23, 31 and 42, Regulation XXIII. 1814. [*Superseded by Section* 4, *Act VI.* 1843.] No. 701, C. C. 6th July, W. C. 17th August and 26th October 1832, ... II. 46

6. The rule contained in Section 29, Regulation XXIII. 1814, provides for the service of processes by pauper as well as other plaintiffs. No. 701, C. C. 6th July, W. C. 17th August and 26th October 1832, II. 46

7. The rules in Clause 4, Section 6, Regulation V. 1831, which require a *moonsiff* to issue a notice for the attendance of claimants to the property sued for, do not apply to the courts of the zillah and city judges or sudder ameens. No. 706, C. C. 20th July, W. C. 17th August 1832, ... II. 50

8. Petitions putting in such claims should be considered as applications "in relation to matters pending" before the court; and as *moonsiffs* are omitted in Article 7, Schedule B, Regulation X. 1829, and with reference to Clause 2, Section 9, Regulation V.

1831, such applications in the court of a *moonsiff* need not be written on stampt paper. No. 706, C. C. 20th July, W. C. 17th August 1832, ... II. 50

9. *Moonsiffs* must still proceed as heretofore, making a reference to the judge before requiring security from defendants or proceeding to attach property in default of such security in cases still pending. [*Section* 4, *Act VI.* 1843, *empowers moonsiffs to demand security from defendants without reference to the judge.*] No. 772, W. C. 29th March, C. C. 26th April 1833, ... II. 89

10. Other evidence than that of the serving peon is required to prove the issue of process to defendants in *moonsiffs'* courts. No. 775, W. C. 4th April, C. C. 3d May 1833, ... II. 90

11. As pleadings, applications for filing exhibits and for the attendance of witnesses, and copies of decrees in suits tried by *moonsiffs*, need not be written on stampt paper, so petitions presented to those officers under Section 7, Regulation VII. 1832, for the execution of their decrees, as well as *vakalutnamehs* filed in cases before them, should be received on plain paper. No. 798, C. C. 14th June, W. C. 19th July 1833, ... II. 106

No. 950, C. C. 1st May, W. C. 10th July 1835, ... II. 210

12. Construction 859 regarding the power of moonsiffs to fine for default, is rescinded by Circular Orders, Sudder Dewanny Adawlut, No. 153, dated 20th August 1841. No. 859, 7th February 1834, II. 153

13. The peons attached to the moonsiffs' courts under the provisions of Section 5, Regulation VII. 1832, are intended exclusively for the execution of judicial processes, and should not be employed in the distraint and sale of property for arrears of rent. No. 861, W. C. 7th February, C. C. 28th February 1834, ... II. 155

14. A collector cannot, without application to the judge, issue a perwanch to a moonsiff to sell personal property and houses attached by his nazir for arrears of public revenue. No. 918, C. C. 28th November, W. C. 26th December 1834, ... II. 193

No. 989, C. C. 28th November, W. C. 26th December 1835, ... II. 237

15. A judge should not interfere in regard to the remuneration of their *vakeels* by the parties in the *moonsiffs'* courts. No. 990, C. C. 11th December 1835, W. C. 2d January 1836, ... II. 237

16. When a judge has modified or confirmed the order of a *moonsiff* imposing a fine, he may refer the order to the *moonsiff* for execution. [*Section* 4, *Act VI.* 1843, *empowers moonsiffs to levy fines without reference to the judge.*] No. 1020, C. C. 1st July, W. C. 22d July 1836, ... II. 263

17. A *moonsiff* may depute an officer to sell property in execution of his own decree, but not when directed by a superior authority to perform that duty. No. 1050, C. C. 30th September, W. C. 2d September 1836, ... II. 283

18. Section 10 [which requires a record of the points at issue] and Section 12 [which requires the issue of an eight days' notice before the hearing of a suit] of Regulation XXVI. 1814, are not applicable to *moonsiffs*. No. 1226, W. C. 21st June, C. C. 2d August 1839, ... III. 56

19. The processes of *moonsiffs* intended to be served on another district should be issued through the channel and under the signature of the judge. [*Superseded by the Circular Order, Sudder Dewanny Adawlut, dated 11th August* 1843.] No. 1235, W.C. 11th July, C. C. 9th August 1839, III. 59

20. A *moonsiff* has the power of calling for the record of a case from any court, [such call being made through the judge of the district to which he is attached,] when any particular circumstances render it necessary for him to do so. But in general, if any particular paper is required, the party who wishes to file it should obtain an attested copy in the usual manner. No. 1259, C. C. 1st November, W. C. 6th December 1839, ... III. 68

21. A moonsiff is competent to ascertain the fact of resistance of a process of his court or other contempt, and to determine the amount of the fine, which in his opinion, ought to be levied from the offender: but before proceeding to levy the fine should report the case for the orders of the judge. [*See note on No.* 16.] No. 1262, W. C. 16th November 1839, C. C. 3d January 1840, ... III. 69

22. When a suit for an amount not exceeding 300 rupees is referred to a sudder ameen, in consequence of some special circumstance taking it out of the cognizance of a *moonsiff*, it falls within the rule of Section 5, Regulation XXV. 1837, and is subject to the stamp duty prescribed for suits in the *sudder ameens'* courts. No. 1277, C. C. 10th April, W. C. 24th April 1840, ... III. 73

23. The written notification, inviting claimants to property contested in *moonsiffs'* courts, prescribed by Clause 4, Section 6, Regulation V. 1831, should precede the notice to the defendant: claimants coming forward in obedience to such proclamations are liable to bear a proportion of costs. No. 1293, W. C. 30th April, C. C. 30th July 1841, ... III. 78

24. A *moonsiff* imposing a fine on a ministerial officer cannot levy it without obtaining the sanction of the judge: nor can he remit a fine without permission of the same authority. [*See Circular Order, Sudder Dewanny Adawlut, 16th September* 1842, *and note on No.* 16.] But if the order imposing the fine has not been signed by the moonsiff, he may remit it of his own authority. No. 1295, C. C. 21st May, W. C. 18th June 1841, ... III. 79

25. The enquiry to be made by the moonsiff under Clause 4, Section 6, Regulation V. 1831, is limited to the right of the claimants in the property actually sued for, and cannot extend to the entire estate of the deceased. No. 1300, C. C. 18th June, W. C. 9th July 1841, ... III. 80

26. A suing B for possession of real property in virtue of a deed of sale in the *moonsiff's* court, the rights and interests of B in the property *after* the institution of the suit, but *before* the decision, are sold by the collector in satisfaction of a decree to C. Held that it is competent to the *moonsiff* to receive an amended plea, including C among the defendants, such amended plea not being considered as a supplemental plaint which a *moonsiff* is not competent to receive. No. 1308, W. C. 28th August, C. C. 17th September 1841,..... III. 82

27. Clause 1, Section 27, Regulation XXIII. 1814, which authorizes the *moonsiff* to dismiss the plaintiff's suit, if, after a notice of ten days has been suspended in the court house, he fail to attend to carry on the suit, is not affected by Act XXIX. 1841, which only provides for the dismissal of suits which, under the rule heretofore in force, have been wont to remain longer than six weeks. No. 1321, W. C. 18th February, C. C. 8th April 1842,..... III. 86

IV. Appeals from Decisions of Moonsiffs.

1. The orders of the zillah and city judges in suits decided by *moonsiffs and sudder ameens* being final, the Court of Sudder Dewanny Adawlut cannot exercise in such suits the powers vested in them by Clause 2, Section 2, Regulation IX. 1831, and this whether the judge's decision was passed before or after the enactment of Regulation V. 1831. [Act III. 1843, allows a special appeal to the Sudder Dewanny Adawlut.] No. 688, W. C. 27th April, C. C. 8th May 1832,..... II. 41

2. No appeal lies to the Sudder Dewanny Adawlut from the order of a judge dismissing a *moonsiff's vakeel*. No. 846, C. C. 6th December, W. C. 27th December 1833, ... II. 142

3. In the event of the plaintiff being non-suited under the provisions of Article 8, Schedule B, Regulation X. 1829, on the ground of the value of the thing claimed being underrated in the proportion of 10 per cent., though a summary appeal would not lie under Section 3, Regulation XXVI. 1814, the principle of Section 4, Regulation XIII. 1808, may be considered to apply; consequently a summary appeal may be had from the decision in such case of a principal *sudder ameen* and *sudder ameen*, [*and, since the enactment of Act XXII.* 1838, *of a moonsiff.*] No. 872, W. C. 21st February, C. C. 24th October 1834, ... II. 163

4. The decisions of *moonsiffs* appointed under Regulation V. 1831, are not reversible without appeal on the ground of irregularity or error, and no appeal on such ground is admissible, after the lapse of the prescribed period for appealing, unless good and sufficient cause be shewn for the delay which may have occurred in excess of that period. No. 979, C. C. 11th September, W. C. 2d October 1835, II. 228

5. When it may appear to the Sudder Dewanny Adawlut that a moonsiff or sudder ameen has tried a suit, which from its amount or other cause, was not legally within his cognizance, and the zillah or city judge has decided an appeal therefrom on its merits, without adverting to this fact; the court will admit a summary appeal, and, considering the original decision of the sudder ameen or moonsiff, and the decision of the zillah judge thereon, equally null and void, will quash all the proceedings in the case, and direct the judge to cause the original suit to be tried *de novo* by the authority competent to do so. [*This construction has been superseded on the ground of the jurisdiction of the Court in such cases being barred by the positive rule in Clause* 1, *Section* 28, *Regulation V.* 1831, *that the decisions of the zillah and city judges in appeal from the decisions of sudder ameens and moonsiffs shall be final, "any thing in the existing Regulations to the contrary notwithstanding," and has been revoked by the Circular Order, Sudder Dewanny Adawlut, dated 26th September* 1842. *See note on No.* 1.] No. 1003, 18th March 1836, ... II. 249

V. Execution of Decrees of Moonsiffs.

1. In cases of execution of decrees in which the defendant may reside, or the property to be attached, be situated in the division of a different *moonsiff* from the one who passed the decrees, the judge should refer the execution to the former. No. 701, 6th July 1832, ... II. 46

2. *Moonsiffs* may be employed in giving possession in execution of their own decrees of all property not being land paying revenue to Government. They are also competent, under Section 51, Regulation XXIII. 1814, with the authority of the judge to give possession of land paying revenue to Government, in execution of any decree which may not have been passed by the moonsiffs themselves. [*See Section* 7, *Regulation VII.* 1832.] No. 701, 6th July 1832, ... II. 46

3. Moonsiffs, in common with other judicial officers, are competent to try the fact of possession of *lakhiraj* lands attached by them in execution of their decrees. No. 798, C. C. 14th June, W. C. 19th July 1833, ...II. 106

No. 1054, C. C. 14th October, W. C. 4th November 1836, ... II. 285

4. A moonsiff may sell instruments of husbandry in execution of a decree. No. 962, W. C. 26th June, C. C. 31st July 1835, ... II. 219

5. Act I. 1839, does not deprive the moonsiffs of the power of selling property in satisfaction of decrees passed by themselves for the recovery of arrears of rent. No. 1219, C. C. 31st May, W. C. 21st June 1839,..... III. 53

6. A judge is not competent to transfer, of his own authority, to the principal sudder ameen, applications

for the execution of moonsiffs' decrees [such moonsiffs being appointed under Regulation V. 1831.] All decrees passed by moonsiffs must, under Section 7, Regulation VII. 1832, be enforced by those officers, except under such circumstances as would have precluded them by law from themselves trying and determining a regular suit. No. 1223, W. C. 7th June, C. C. 12th July 1839, ... III. 56

7. Parties objecting to the sale and transfer of property in execution of decrees, may petition the *moonsiffs'* courts on plain paper. No. 1278, W. C. 5th June, C. C. 26th June 1840,..... III. 73

VI. Miscellaneous Matters concerning Moonsiffs.

1. *Sudder ameens* and *moonsiffs* are not considered to be native officers, who are prohibited by Section 8, Regulation XIII. 1793, Regulation XII. 1795, and Section 11, Regulation XII. 1803, from interfering publicly or privately in suits or matters pending before the judge's court. No. 520, 21st August 1829, ... I. 221

2. Applications for the erection and repair of *moonsiffs' cucherries* and other similar contingencies should be made direct to Government. No. 701, C. C. 6th July, W. C. 27th August and 26th October 1832, ... II. 47

3. A *moonsiff* or other competent officer called upon to sell property attached for rent is entitled to be reimbursed, expenses actually and necessarily incurred by him, though no sale should take place: and if such expences be not paid, he is authorized to realize them by the sale of such part of the attached property as may appear necessary for the purpose. [*Act I. of 1839, cancels the power of moonsiffs to act as agents for the sale of property attached for arrears of rent.*] No. 714, C. C. 31st August, W. C. 5th October 1832, ... II. 55

4. Moonsiffs are not entitled to receive commission on sales conducted in execution of their own decrees; but only on those which they may hold in execution of the decrees of other courts. No. 861, W. C. 7th February, C. C. 28th February 1834, II. 155

5. *Moonsiffs* may depute *ameens* to make local investigations on regular suits pending before themselves. But they cannot depute a person to make such investigation as they themselves have been directed to make by other courts. If the *moonsiff* cannot leave his station to make such investigations without materially interfering with his special duties, he should represent the circumstance to the judge, who may depute another person to perform the duty. No. 863, C. C. 14th February 1834,..... II. 155

6. *Moonsiffs* are not liable to any deduction from their salaries, when absent from their station, with the permission of the judge, on any of the established native holidays. No. 953, C. C. 22d May, W. C. 8th May 1835, ... II. 213

7. The law does not require that the judge should confirm all appointments by the native judges of the ministerial officers of their respective courts. The interference should be restricted to prevent the appointment of improper persons, and the dismissal without good and sufficient reason of those already appointed. No. 1160, W. C. 27th July, C. C. 17th August 1838, ...III. 18

8. The power to receive security in cases of distraint for arrears of rent, which was conferred on moonsiffs under Section 16, Regulation V. 1812, in virtue of their office as commissioners for the sale of distrained property, necessarily ceases with the withdrawal of the commission under Act I. 1839. No. 1255, C. C. 18th October, W. C. 22d November 1839,..... ..... III. 66

MORTGAGE.

1. In a case of mortgage granted prior to the 20th March 1780, on condition that the appellant should retain possession, and enjoy the profits of the land mortgaged, until the principal sum lent should be repaid, [the annual profits being given in lieu of interest;] the court dismissed the claim of the appellant to recover the principal sum lent, with 12 per cent. interest, under Section 10, Regulation XV. 1793, and decreed that the parties should abide by their engagements, on the ground that the section cited was intended to benefit the mortgager, and not applicable to this case, in which it appears that the mortgagee had received less than 12 per cent. from the land. No. 15, 18th December 1805, ... I. 5

2. The provisions of Section 8, Regulation XVII. 1806, do not entitle the mortgagee to be put in possession, by judicial process, of the property, though stated to be unredeemed at the expiration of the period notified, if the mortgager deny his right to possession; the judge, in such case, cannot put the mortgager in possession on a summary investigation, or otherwise than by a regular suit. If the mortgager, on being called on to shew cause why the mortgagee should not obtain possession of the land, should deny the right of the mortgagee; the question of right can only be determined by a regular suit in the civil court. No. 80, 14th March 1811, ... I. 19

3. An action on the part of the mortgagee for possession at the expiration of the period of mortgage, will not lie against the mortgager who disputes the claim, until application has been made to foreclose, as directed in Section 8, Regulation XVII. 1806. No. 105, 25th June 1812, ... I. 28

4. The duty of the civil courts on application for the foreclosure of mortgages, is clearly laid down in the Circular Order, Sudder Dewanny Adawlut, 22d July 1813. No. 131, 22d July 1813,..... I. 38

5. The period of one year allowed for the redemption of mortgages, must be calculated from the

date of the notification to the mortgager; and not from the date on which it may have been served on him. No. 263, 23d January 1817, ... I. 91

6. Cases brought before the civil courts, under Sections 10 and 11, Regulation XV. 1793, and Sections 9 and 10, Regulation XXXIV. 1803, for the adjustment of accounts of mortgage of real property, must be received and tried as regular suits. [*See No.* 14, *infra.*] But if the holder of a deed of mortgage and conditional sale, object to the surrender of the mortgaged property, which may be in his possession, the court may decide the question summarily. No. 277, 9th July 1817,..... I. 99

7. On an appeal being preferred in a summary suit under Regulation XXXIV. 1803, on objections to the relevancy of the regulation to the facts of the case, the provincial courts must exercise the same discretion as in other appeals in regard to staying execution, and the zillah judge must follow the same course, as in other cases appealed. No. 331, 14th November 1820, ... I. 135

8. The borrower is entitled to recover possession summarily on depositing the principal sum borrowed, leaving the interest to be settled on an adjustment of the lender's receipts and disbursements during possession. If the borrower allege the principal sum to have been paid from the usufruct, and the lender deny the allegation, the parties must be referred to a regular suit. But if the borrower deposit the principal, merely for the purpose of recovering possession, he may sue the lender for restitution of the sum deposited, and recover it with interest on proving that it really was not due. No. 339, 25th May 1821,... I. 138

9. The spirit and intention of Regulation XVII. 1806, appear applicable to every description of real property as well as to landed estates. No. 370, 21st September 1824, ... I. 154

10. Held that a magistrate exceeded his competency in awarding possession to the purchaser of mortgaged property, to the exclusion of the mortgager, on the plea that the mortgage had been redeemed, although the purchaser, up to the time of the dispute, had never been in possession. No. 393, 17th June 1825, ... I. 164

11. It is not required by the regulations that a copy of the deed of mortgage should be served on the mortgager, but only a copy of the application for the issue of the prescribed notice. No. 630, 11th March 1831, ... II. 7

12. A copy of the application of the mortgagee to foreclose should accompany the *perwaneh* issued to the mortgager; and the mortgagee, on filing his application, should be directed to deposit the *tulubana* of the *peon*, who is to serve the *perwaneh* on the other party, that the order for issuing the same may be passed without delay. No. 644, 24th June 1831, ... II. 14

13. Proprietors of estates are not entitled to the benefit of Regulation XVII. 1806, in cases of *bye-bil-wufa*, in which the period specified for redemption expired prior to the promulgation of that regulation. No. 672, 20th January 1832, ... II. 33

14. There is no provision in the regulations to authorize a summary suit in cases brought before the court under Sections 9 and 10, Regulation XXXIV. 1803, which relate only to simple mortgages. No. 830, W. C. 20th September, C. C. 18th October 1833,..... II. 128

15. Mortgaged property may be sold in execution of a decree obtained by other than the mortgagee, with a reservation of his rights and interests. No. 856, C. C. 24th January 1834, ... II. 148

16. In a case of mortgage and conditional sale, if the money be not repaid, the lender, unless good and sufficient cause be shewn, can only sue for possession of the property pledged, and has not the election of suing to recover the money or to be put in possession of the property, as he may deem most advantageous to his interests. No. 898, C. C. 5th September 1834, ... II. 182

17. In a suit by a mortgager to regain possession of the property mortgaged, the amount of stamp must be calculated on the value of the property, and not on the sum for which it was mortgaged. No. 957, W. C. 17th June, C. C. 7th August 1835, ... II. 215

18. The provisions of Clause 4, Section 3, Regulation II. 1805, apply equally to real and personal property; and no lapse of time will bar a demand founded on a deposit of money or other personal property. No. 965, W. C. 17th July, C. C. 7th August 1835, ... II. 220

19. When a mortgager has deposited the sum due in order to redeem the mortgage, the notice to the mortgagee requiring him to render up possession need not allow him the period of one year, but any reasonable period according to the distance of his residence from the *sudder* station. No. 974, C. C. 7th August 1835, ... II. 226

20. A magistrate may interfere in disputes between mortgagers and mortgagees, when such disputes appear likely to terminate in a breach of the peace; and it does not in any way affect the question, whether the mortgage have been registered or not. No. 1006, W. C. 15th April, C. C. 20th May 1836, ... II. 250

21. In a suit brought by a mortgagee for foreclosure of a mortgage, it is incumbent on the court, on such plea being urged, to enquire whether the transaction was illegal *ab initio*, and decide accordingly. No. 1140, C. C. 23d March, W. C. 2d March 1838,..... III. 9

22. If in such suit, it be proved that the prescribed notice of one year was not duly issued to the mortgager, the plaintiff ought to be nonsuited, and left to apply to have it issued. No. 1140, C. C. 23d March, W. C. 2d March 1838,..... III. 9

23. A judge, in carrying on the process required on the application of a mortgagee to foreclose, acting

purely in a ministerial capacity, is not competent to entertain or enquire into a plea of forgery set up by the mortgager. He may however enquire into any alleged misconduct on the part of his officers. No. 1179, W. C. 12th October, C. C. 2d November 1838,..... III. 31

MUHAJONS' BOOKS.

See "Account Books," *passim.*

NATIVE BRITISH SUBJECTS.

See "Foreign Territories, crimes committed in," *passim.*

NATIVE OFFICERS.

1. The provisions of Regulations XIII. 1793, XII. 1795, and XII. 1803, whereby parties injured have the option of instituting a civil action, in cases of corruption or extortion, are not considered as precluding a criminal prosecution whenever there appear sufficient grounds for it. The prosecution should be public and conducted by the vakeels of Government. No. 54, 21st November 1809, ... I. 13

No. 58, 18th March 1810, ... I. 14

2. The courts of appeal and circuit may remove of their own authority any officers whom, by Regulation VIII. 1809, they are competent to remove on a reference from the judges and magistrates. No. 62, 19th July 1810, ... I. 14

3. The provisions of Section 8, Regulation XL. 1793, and other regulations which declare native commissioners [sudder ameens and moonsiffs] liable to prosecution in the civil court, for corruption or any unwarranted and oppressive act of authority, are not meant to prohibit a criminal prosecution, in cases where the nature and circumstances of the case appear to call for it. No. 64, 11th August 1810, ... I. 15

4. There being no specific provision in the regulations for compelling native officers of Government in the judicial department, to deliver over charge of the records of their office, such cases fall within the general provisions of Section 21, Regulation III. 1793. No. 176, 3d August 1814, ... I. 55

5. A person punished for corruption or extortion in a criminal prosecution, would not afterwards be liable to the fine prescribed by Section 12, Regulation XII. 1803, though he would of course be subject to a civil action for the restitution of the money received by him. No. 231, 12th January 1816,... I. 76

6. When a magistrate may see grounds for a criminal prosecution against a native ministerial officer on a charge of bribery or extortion, it is not necessary that such prosecution should be deferred for a civil action as provided by Regulation XIII. 1793. No. 237, 16th February 1816, ... I. 79

7. The magistrate may pass sentence of punishment on a conviction of bribery or extortion to the extent vested in him by the regulations, when such punishment may appear to him adequate: otherwise he should commit to the circuit court. No. 237, 16th February 1816,..... I. 79

8. Native doctors attached to the zillah and city jails must be considered to fall within the general description of subordinate officers attached to jails whom the magistrate may appoint and remove. No. 258, 23d September 1816, ... I. 89

9. In cases provided for by Sections 16 and 19, Regulation III. 1794, the judge, on the application of the collector, for the confinement of a defaulting tuhseeldar, or other native officer, cannot proceed in any other manner than according to the provisions of the sections cited, i. e. confine the defaulter until he pay the sum, or give up the papers demanded from him, or furnish security to institute a suit to contest the demand, which suit must be instituted and proceeded on as a regular suit. No. 282, 29th December 1817, ... I. 103

10. Ministerial officers are removeable without proof of any special act of misconduct, whenever there shall be sufficient reason to deem them incapable, or in any respect unworthy of public confidence. And the inability of a native officer to give a reasonable account of his possessing so much more property than the lawful emoluments of his office seemed to authorize, was held to be a sufficient ground for presuming him to be a person unfit for public confidence. No. 306, 3d September 1819,..... I. 124

11. The summary decree prescribed by Section 7, Regulation XVIII. 1817, adjudging the exact sum recoverable, must be passed before the judge can proceed to realize the amount embezzled by a native officer. No. 334, 29th December 1820, ... I. 136

12. The provincial court have power to rescind the order of a magistrate for the suspension of one of his officers pending an enquiry into his conduct; though they should use this power with discretion. [*Obsolete, as the provincial courts have been abolished. See Section* 4, *Act XXIV.* 1837, *which gives the control in such matters to the superintendant of police.*] They may also receive and act upon petitions from suspended officers forwarded by the dawk, provided they be written on stampt paper. No. 344, 13th July 1821, ... I. 141

13. The prohibition in Section 2, Regulation VIII. 1825, against employing, on any public duty, private servants or other persons not being public officers duly appointed, applies to *omedwars*, but cannot be construed to preclude other than the regularly appointed officers of the court from taking copies of public documents, with the sanction of the magistrate, for the use of private individuals, at the expense of those who may employ them. No. 407, 11th November 1825, ... I. 171

14. The provisions of Section 38, Regulation IX. 1810, which declares native officers in the customs department subject for extortion to imprisonment, fine, and corporal punishment, are not applicable

to native officers in the salt department. But though there is no corresponding enactment in Regulation X. 1819, the officers of the salt department are of course amenable to justice for acts of extortion under the general regulations. No. 476, 8th April 1828, ... I. 202

15. The commitment of a native officer of the civil court for embezzlement, should be made by the magistrate and not by the judge. No. 518, 7th August 1829, ... I. 220

16. *Sudder ameens* and *moonsiffs* are not considered to be native officers who, by Section 8, Regulation XIII. 1793, are directed not to interfere publicly or privately in any cause or matter depending before the court to which they may belong. No. 520, 21st August 1829, ... I. 221

17. Giving bribes to the *omlah* of public officers is punishable as a misdemeanor. No. 522, 4th September 1829, ... I. 222

18. The temporary appointment of an officer officiating in the courts, should be reported to the provincial courts. [Obsolete.] No. 578, 12th May 1830, ... I. 242

19. Though the appointment of native ministerial officers should be reported to the commissioner immediately, they can legally act as soon as they are appointed. [See above No. 18.] No. 618, 14th January 1831, ... II. 1

20. A magistrate may entertain and investigate a charge of corruption preferred against an officer on the establishment of a commissioner of revenue and circuit. No. 649, 22d July 1831, ... II. 15

21. Though a summary enquiry into cases of embezzlement of the ministerial officers of the judge's court may be conducted by him under Section 7, Regulation XVIII. 1817, he cannot commit for that offence: this duty being left to the magistrate, to whom the judge should submit his proceedings if grounds appear for subjecting the accused to a criminal trial. The magistrate will in such case use his own discretion in committing or releasing the accused, on a fair consideration of the evidence adduced. No. 691, 11th May 1832, ... II. 43

22. Though *thannadars* and other subordinate police officers do not come strictly within the terms of Section 9, Regulation XIII. 1793, Section 12, Regulation XII. 1803, and Section 10, Regulation X. 1806, the magistrate, if he have reason to suspect that a charge of corruption against such officer is false and unfounded, may call on the person preferring it to give security for his attendance until the final decision of the case. No. 731, W. C. 2d November, C. C. 30th November 1832, ... II. 63

23. Section 8, Regulation XI. 1831, which gives commissioners control over the magistrate's orders for the appointment and removal of police officers, is applicable to the whole of the ceded and conquered provinces, and not to such parts only in which *tuhseeldary* establishments are entertained. No. 736, W. C. 9th November, C. C. 7th December 1832,... II. 65

24. The provincial court having commenced an enquiry into the conduct of a native officer, were informed that they should complete it, and, if they considered the case to call for exemplary punishment, direct the Government pleader to institute a criminal prosecution against the defendant before the magistrate; but that in the event of their not deeming it necessary to adopt this measure, it would of course be optional with the prosecutor to do so himself, or to seek redress by instituting a suit against the defendant in the civil court. No. 737, C. C. 16th November 1832, ... II. 66

25. A magistrate cannot receive charge of bribery against a *moonsiff*, without the permission of the judge. No. 781, C. C. 12th April, W. C. 17th May 1833, ... II. 95

26. No report to the Nizamut Adawlut is necessary previous to the dismissal of the *serishtedar* of the magistrate's court. It should be made to the commissioner, [*since the enactment of Regulation XXIV. 1837, to the superintendent of police, if one has been appointed,*] who is competent to pass such orders as the case may require. No. 792, C. C. 17th May 1833, ... II. 103

27. Any sum actually due to a public officer as salary, is liable to be attached in execution of a decree. No 827, W. C. 9th August, C. C. 6th September 1833, ... II. 126

28. The magistrate of Burdwan was censured for arresting a police *darogha* of Beerbhoom, while in the execution of his duty, in serving a warrant issued to him by the magistrate of the latter district, and was informed that he should have postponed requiring the *darogah's* attendance until he had completed the duty on which he was deputed by his immediate superior. No. 851, 26th December 1833, II. 145

29. A session judge is competent to fine an officer of the magistrate's court guilty of negligence or disrespect while in attendance at the sessions. No. 882, C. C. 18th April, W. C. 16th May 1834, II. 169

30. The provisions of Regulation II. 1813, for preventing native officers making use of public money are still applicable to the native officers of the commercial department entrusted with public money, and are not affected by the provisions of Regulation IX. 1829. No. 903, C. C. 3d October, W. C. 14th November 1834, ... II. 184

31. The provisions of Clauses 4 to 7, Section 7, Regulation XVII. 1816, having been superseded as regards police officers of whatever denomination, without reference to the amount of their salaries, appeals from orders for their dismissal may be received by the commissioner, [*or since the enactment of Act XXIV. 1837, by the superintendent of police, if one have been appointed,*] from any police officer, whether his salary be above or below 10 rupees a month. No. 907, W. C. 10th October, C. C. 7th November 1834, ... II. 185

32. The Circular Order, Nizamut Adawlut, of 8th April 1818, declaring the magistrate's order for the

appointment and removal of native officers receiving a salary not exceeding 10 rupees final, remains in full force in regard to all such officers, not being police officers, who, under Section 8, Regulation XI. 1831, may appeal to the commissioner [*or since the enactment of Act XXIV*, 1837, *the superintendent of police. The Circular Order, Nizamut Adawlut, 16th September* 1842, *declares this construction. superseded by Act XXXI.* 1841, *Section* 2 *of which renders all orders passed by magistrates in proceedings other than criminal trials, appealable to the session judge.*] No. 940, C. C. 27th March, W. C. 23d January 1835,..... II. 205

33. Bribery and corruption on the part of native ministerial officers in the revenue department, are punishable as misdemeanors under the rules laid down in Clause 7, Section 2, Regulation LIII. 1803. No. 1002, W. C. 4th March, C. C. 25th March 1836, ... II. 248

34. A commissioner, though he should deem a person, acquitted of a specific offence, to be a corrupt officer, has no authority to declare him perpetually excluded from future employ in his division. No. 1065, C. C. 16th December 1836, W. C. 6th January 1837,..... II. 292

35. A civil judge being of opinion from a summary enquiry that there are grounds for a criminal prosecution against a moonsiff, charged with certain official misconduct, including the fabrication of official papers, should make the case over to the magistrate and not make the commitment himself. No. 1069, C. and W. C. 27th January 1837,..... II. 195

36. The law does not require that the zillah judge should confirm all appointments by native judges of the ministerial officers of their respective courts. The interference of the zillah judge should be restricted to prevent the appointment of improper persons, and the dismissal, without good and sufficient reason, of those already appointed. No. 1160, W. C. 27th July, C. C. 17th August 1838, ... III. 18

NATIVE SOLDIERS.

See "Military Cantonments, Courts, &c., Civil and Criminal."

NAZIRS.

1. *Nazirs* of civil courts are not liable to pay the amount of sums due from persons who escape from their custody, unless collusion on their part be proved. Note on No. 53, 2d August 1803, ... I. 13

2. Claims against the *nazirs* of civil courts for alleged injury to parties from neglect of duty or other misconduct must be received and tried as regular suits: no summary investigation is allowed. They should be decided as speedily as possible, and security may be taken from the *nazir* to perform the judgment on such claims. No. 53, 18th November 1809, ... I. 13

3. *Nazirs* may be employed in the attachment and sale of personal property for the purpose of realizing fines, or of decrees, regular or summary, but are not entitled to receive any commission on the proceeds of such sales as moonsiffs are under Section 52, Regulation XXIII. 1814. No. 509, 29th May 1829, ... I. 216

No. 587, 8th April 1831,..... I. 245

4. A *nazir* or other person deputed on his part to serve process agreeably to Section 4, Regulation II. 1806, having entered the compound of the defendant's house, is not authorized to force an entry into the house, in the event of the defendant's shutting the door against him. No. 745, C. C. 21st December 1832, ... II. 71

5. The *nazir* of the civil court is entitled to a percentage on the sale of *lawarisee* property, for that being at the disposal of Government, they may grant him a commission on the proceeds of the sale. But not on the sale of the property of a deceased person, not intestate, as this sale is extra-official, for conducting which the *nazir* can claim no remuneration but what may have been agreed on by an arrangement with the administrator. Nor can he claim a percentage on the sale of property sold in execution of decrees, nor of property sold in satisfaction of sums embezzled by public officers, such sales being in fact in execution of decrees or orders of court. No. 824, C. C. 30th August, W. C. 1st November 1833, II. 124

6. If it be shewn on a civil prosecution that the *nazir* of a criminal court has wilfully misrepresented the value or sufficiency of any security, in regard to which he had been directed to enquire and report, and that loss ensued in consequence of such misrepresentation on his part, he would be liable to the payment of damages at the discretion of the court before whom the suit was brought. No. 1014, W. C. 17th June, C. C. 8th July 1836,..... II. 259

7. As no fees are leviable for the remuneration of ameens appointed under Circular Order, Sudder Dewanny Adawlut, of 13th January 1837, for investigating the sufficiency of security tendered to the Court of Sudder Dewanny Adawlut, or the circumstances of parties wishing to sue as paupers, these duties should be entrusted to the *nazir* or *moonsiff*. No. 1078, C. C. 10th March, W. C. 31st March 1837, ... II. 301

NEGLECT OF DUTY.

1. The magistrate of Benares was informed that the Court hoped he would punish neglect and misconduct on the part of watchmen, by discharging them and appointing others, rather than by inflicting corporal punishment. [*Corporal punishment abolished by Section* 2, *Regulation II.* 1834.] No. 124, 25th March 1813, ... I. 35

2. Section 6, Regulation III. 1814, is applicable only to *chowkeydars* and other description of village

watchmen, and magistrates cannot punish with stripes except for theft. [*Corporal punishment abolished by Section 2, Regulation II.* 1834.] Where therefore the magistrate had inflicted stripes, the Court of Nizamut Adawlut remitted that part of the sentence which directed forfeiture of arrears of salary. No. 151, 7th April 1814, ... I. 47

3. Section 6, Regulation II. 1799, and Section 23, Regulation VIII. 1803, which provide for the immediate discharge of all guards of convicts, who having custody of convicts may appear to be guilty of wilful neglect, do not empower the magistrate to declare by a public order that such officer shall never be employed in the zillah court in any capacity whatever. No. 157, 28th April 1814, ... I. 48

4. A magistrate is not authorized under Clause 5, Section 5, Regulation VIII. 1809, to adjudge a *burkundaz*, from whose custody a prisoner escaped, to pay a fine equal to three months' salary. The Court ordered the restitution of what had been levied exceeding one month's salary. No. 192, 18th January 1815, ... I. 60

5. The magistrate having sentenced a *burkundauz* to corporal punishment for neglect, which punishment he can only inflict for theft, [*corporal punishment abolished by Section 2, Regulation II.* 1834,] the Court remitted the remainder of the sentence of imprisonment to which he had also been sentenced. [See however subsequent rule in Clause 1, Section 9, Regulation XIV. 1816.] No. 193, 18th January 1815, ... I. 60

6. When the magistrate may be of opinion that the punishment he is authorized by Section 19, Regulation IX. 1807, to inflict, is sufficient, in a case of connivance or other criminality in the escape of prisoners, he may dispose of the case himself, instead of committing it to the circuit court as directed by Section 6, Regulation II. 1799. No 206, 25th May 1815, I. 66

7. By Clause 5, Section 5, Regulation VIII. 1809, a specific provision [a fine equal to one month's pay] is made for neglect of duty by officers of police. But if any distinct misdemeanor beyond neglect of duty should be established, the case would fall within the magistrate's discretion under the general powers vested in him by Section 19, Regulation IX. 1807. No. 244, 15th March 1816, ... I. 82

8. A magistrate is not authorized, under Regulation XIV. 1816, or any other regulation, to sentence to hard labor a *burkundaz* found guilty merely of neglect of duty. No. 712, W. C. 24th August, C. C. 21st September 1832, ... II. 54

9. As *burkundazes, chowkeydars,* &c., found guilty of neglect of duty, were not formerly liable to stripes in *addition* to imprisonment, no additional period of imprisonment can be awarded in such cases under Regulation II. 1834. No. 923, W. C. 19th December 1834, C. C. 16th January 1835, ...II. 195

10. A magistrate may punish a *burkundaz* guilty of gross neglect to fine and imprisonment under the provisions of Section 19, Regulation IX. 1807, but if he think the sentence he is thereby authorized to pass insufficient, he should proceed to commit him under the rule laid down in Section 6, Regulation II. 1799. No. 1131, C. C. 16th February 1828, ... III. 5

NIZAMUT ADAWLUT.

1. The Nizamut Adawlut are competent to mitigate a sentence on judicial grounds, apparent on the record, and strictly connected with the case. If the ground of mitigation be personal to the prisoner, the prerogative of mercy rests with Government. No. 350, 30th September 1822, ... I. 144

2. The concurrent opinion of two judges who agree in all points of the decision is final and conclusive, though it differ from the opinion of two other judges, who do not agree with each other. [*See also case of Mokarim and others, page* 121, *Vol. II. Nizamut Reports.*] No. 526, 25th September 1829, ... I. 223

3. A summary order of the Nizamut Adawlut to the magistrate is not binding on the civil courts. No. 609, 18th November 1831, ... I. 252

4. By "criminal trials" in Section 3, Regulation IX. 1831, shall be understood the cases of persons tried for a criminal offence by any court of inferior jurisdiction. Cases in which interference with an order of an inferior court issued prior to the final judgment in such trials, should be brought before the English sittings. No. 662, 9th December 1831, II. 29

5. In trials called for by the court, no *futwa* need be taken: in those regularly referred, a *futwa* will be taken or not, as heretofore. No. 662, 9th December 1831, ... II. 29

6. In a trial for *murder*, the law officer of the circuit court acquitted the prisoner: the commissioner, dissenting, referred the trial with his opinion that the prisoner was guilty of *affray with homicide*; the law officer of the Nizamut Adawlut also acquitted: the revising judge deemed the prisoner guilty of *manslaughter*. The Court held that he was competent to dispose of the case without calling in another judge. No. 674, 27th January 1832, ... II. 33

8. It was held that the Western Court of Nizamut Adawlut were authorized to receive and act upon periodical reports and other matters, having reference to periods prior to the 1st January 1832, which on that date were not before the Presidency Court. No. 700, 6th July 1832, ... II. 46

9. The cognizance by the Nizamut Adawlut of cases connected with the management of jails, has not been withdrawn: the rule contained in Section 3, Regulation IX. 1831, not being applicable to matters of that nature. No. 746, C. C. 28th December 1832, W. C. 8th February 1833, ... II. 72

10. The jurisdiction of the Presidency Court over the province of Benares and the ceded and conquered

provinces, having been transferred by Regulation VI. 1831, to the Court of Nizamut Adawlut for the Western Provinces, it was held that the Western Court possess in those provinces, in regard to the revision of orders and sentences passed by the Court at the Presidency, before the enactment of that Regulation, the whole of the powers which could have been exercised by the latter previouly to the separation of the jurisdictions. No. 799, W. C. 17th May, C. C. 14th June 1833, ... II. 107

11. The judges of the Nizamut Adawlut for the Western Provinces are competent to revise, in full court, the proceedings of one or more judges in any case connected with the districts under their jurisdiction, and to reverse or modify the sentence as may appear just and proper, provided that no sentence of a criminal court can be modified to the prejudice of the prisoner or prisoners included in it. This power may be exercised whether the sentence was passed by former judges of the Western Court, or by any of the judges of the Presidency Court. If the judge, or any of the judges who passed the original sentence, be present, the revision shall be made by him, provided that if two or more judges concurred in the order or sentence, and any of them be not present, the case must be brought before the whole Court, if it be proposed to modify or annul the order or sentence. No. 819, W. C. 26th July, C. C. 23d August 1833, II. 120

12. The interference of the Nizamut Adawlut is now restricted to "criminal trials," i. e. cases involving a judicial investigation on a criminal charge and a judicial award. In all other cases which are contradistinguished as "miscellaneous cases," the appellate authority is transferred to the commissioner of circuit, by Section 3, Regulation IX. 1831, with the reservation of a further appeal to the Governor General in Council, in those cases in which the party deeming himself aggrieved may prefer that course, instead of resorting immediately to the civil courts, [as in cases of dispossession or other actionable cause,] or in which the nature of the case will not admit of the remedy by civil action, [as in the case of alleged injustice towards native officers of Government by magistrates or others to whom they are subordinate.] For the former, the ordinary remedy by suit is provided; for the latter an appeal to Government. [*Superseded. See Act XXIV.* 1837, *and Act XXXI.* 1841.] No. 914, W. C. 25th July, C. C. 7th November 1834, ... II. 188

13. Held that in a criminal trial wherein differing opinions have been recorded, the sentence should issue according to the opinions of the majority, as regards each prisoner: and that where the difference only relates to the measure of punishment, the most lenient sentence should be adopted. No. 952, W. C. 15th May, C. C. 3d July 1835, ... II. 211

14. The magistrate, on a report from a thanehdar that an affray was to be apprehended between the zumeendars and mortgagees of a village, causes them to execute *moochulkas* to keep the peace. An affray occurring, the magistrate levies the penalty, and the commissioner confirms the order. The zumeendar preferring an appeal to the Nizamut Adawlut, it was held that this was a miscellaneous case in which no appeal lay to the Nizamut Adawlut. [*For the present law of criminal appeal, see Act XXXI.* 1841.] No. 954, W. C. 29th May, C. C. 26th June 1835, ... II. 213

15. It is competent to the Nizamut Adawlut to enhance a sentence on an appeal from the prisoner. [*Section 4, Act XXXI* 1841, *declares that it shall not be lawful for the Nizamut Adawlut to enhance a sentence.*] No. 1253, C. C. 4th October, W. C. 31st October 1839, ... II. 66

16. The Nizamut Adawlut may interfere with a session judge's order regarding the restoration of property, in a case in which the person accused of stealing the property had been acquitted by the magistrate and session judge. [*See note on No.* 14.] No. 1275, W. C. 6th March, C. C. 3d April 1840, ... III. 71

NONSUIT.

1. The penalty of nonsuit provided in the concluding part of Article 8, Schedule B, Regulation X. 1829, is applicable to all suits in which the conditions of the said provisions have not been complied with. No. 577, 5th November 1830, ... I. 241

2. In suits instituted prior to the promulgation of Regulation X. 1829, in which the amount of action may have been erroneously stated, the court should proceed according to the rules laid down in Section 7, Regulation XXVI. 1814; while the rules contained in the 4th para. of Article 8, Schedule B, Regulation X. 1829, are applicable to suits instituted subsequently to its promulgation. No. 687, 27th April 1832, ... II. 40

3. In the event of a plaintiff being nonsuited under the provisions of Article 8, Schedule B, Regulation X. 1829, on the ground of the value of the thing claimed being underrated in the proportion of 10 per cent., though a summary appeal will not lie under Section 3, Regulation XXVI. 1814, the principle of Section 4, Regulation XIII. 1808 may be considered to apply. Consequently a summary appeal may be had from the decision, in such case, of a principal sudder ameen, or sudder ameen, [*and since the enactment of Act XXII.* 1838, *of a moonsiff.*] No. 872, W. C. 21st February, C. C. 24th October 1834, ... II. 163

4. When the collector in his official capacity has been improperly made a defendant, the court before nonsuiting should give the plaintiff the option, if he did not appear to be actuated by an improper motive, of filing a supplementary plaint and withdrawing the collector's name. No. 1075, C. C. 21st February, W. C. 13th January 1837, ... II. 298

NOTICE.

1. The notice directed by Section 2, Regulation II. 1806, to be issued to the defendant requiring his attendance, is not applicable to cases of summary process provided for by Section 15, Regulation VII. 1799. No. 30, 18th July 1807, ... I. 8

2. When the notice prescribed by Clause 8, Section 15, Regulation XXVI. 1814, and Section 7, Regulation VII. 1825, [calling on defendant to shew cause why the decree against him should not be executed,] cannot be served on the defendant, a proclamation requiring him to shew cause should be issued and affixed to the defendant's house. No. 1236, C. C. 19th July, W. C. 16th August 1839, ... III. 60

NUWAB NAZIM.

1. The Governor General's agent at Moorshedabad, having asked whether a suit could be instituted in the manner prescribed by Regulation IV. 1812, in favor of his highness the Nuwab Nazim, was informed, that the solution of his question depended on whether Government consider his highness the Nazim as a sovereign prince or not, and was recommended to apply direct to Government for information on that point. No. 377, 8th April 1825, I. 156

OATH.

I. Administered by a Collector.

See "Collectors," Nos. 3, 35.

II. Administered by an Officer Commanding.

See "Military Cantonments, &c. Criminal," No. 4.

III. Of an Assistant to a Magistrate.

See "Assistant to Magistrate," No. 8.

IV. Of Commissioner under Act XXVI. 1830.

See "Public Officers, Complaints against," No. 1.

OPIUM.

1. The penalty prescribed by Clause 4, Section 18, Regulation VIII. 1824, against persons convicted of illicit dealings in opium, cannot, in any case, exceed 500 rupees, whether there be one or more persons concerned in the illicit dealing; and should include the value of the opium forfeited. Thus if the opium be valued at 200 rupees, and four persons convicted of the illicit dealing, each should be amerced in the sum of 75 rupees, so as to make up, with the value of the opium, the sum of 500 rupees. No. 494, 20th February 1829, ... I. 210

2. Though a magistrate has no power to search a house for the discovery of contraband opium *as such*, he may search for the discovery of opium or any other deleterious drug, which, from information before him, he may have reason to believe has been used as an instrument of death, and of which he considers it necessary, for the ends of justice, that a discovery should be effected. No. 1241, W. C. 16th August, C. C. 20th September 1839, ... III. 61

ORIGINAL SUITS.

I. What are to be heard as Regular Suits.

1. A promise to pay a debt contracted by the raja of Cojung in Cuttack, before the 14th October 1803, such promise having been made subsequent to that date, does not constitute a ground of action. No. 59, 28th March 1810, ... I. 14

2. The restriction in Section 6, Regulation XIV. 1805, from hearing suits in which the persons specified therein are parties, is not applicable to cases in which the cause of action arose subsequently to the conquest of Cuttack, i. e. 14th October, 1803. No. 122, 17th March 1813, ... I. 35

3. Claims to pensions payable by Government are not cognizable by the civil courts. No. 230, 12th January 1816, ... I. 76

4. The suit of a defaulting revenue officer to contest the justness of the collector's demand against him, must be instituted and proceeded on as a regular suit. No. 282, 29th December 1817, ... I. 103

5. On a compromise of theft under Section 7, Regulation XII. 1818, the civil court cannot entertain a suit by the injured party to compel the offender to restore the value of the property stolen. No. 318, 7th July 1820, ... I. 131

6. The suit of an alleged revenue defaulter to contest the collector's demand against him, must be instituted and proceeded on as a regular suit. No. 330, 17th November 1820, ... I. 135

7. A collector cannot be sued for declining to pay a pension, the original title to which has not been previously recognized and confirmed by the revenue authorities or Government. No. 343, 6th July 1821, ... I. 140

8. The civil courts are not competent to take cognizance of a suit for actual costs against a plaintiff, whose complaint was dismissed by a criminal court. No. 367, 2d July 1824, ... I. 153

9. An action will not lie against a register for acts done in his official capacity under the rules contained in Regulation VIII. of 1819, for the sale of *putnee* talooks. No. 440, 8th December 1826, I. 185

10. A suit against an auction purchaser and the late proprietor, by a person claiming an interest in land sold by a collector for public arrears and delivered to the purchaser, must be instituted and proceeded on as a regular suit. No. 469, 8th February 1828, I. 198

11. A suit for the recovery of money said to have been given as a bribe to the collector's serishtedar, must be received and proceeded on as a common action of debt. No. 807, 2d August 1833, ... II. 113

12. Suits for rent transferred by the collector to the subordinate judicial tribunals under Section 15, Regulation VIII. 1831, must be entered and tried as regular suits. No. 951, W. C. 8th May, C. C. 22d May 1835, ... II. 211

13 A suit against a person, who has taken charge of attached property and thereby rendered himself responsible for the safe custody thereof, for damages which may have arisen from his failing to do so, must be received and tried as a regular civil suit; no summary process can be instituted against him. No. 958, W. C. 19th June, C. C. 17th July 1835, ... II. 216

14. Miscellaneous orders passed in execution of a decree in regard to mesne profits, interest, and other matters in dispute between the parties in a suit, which may be involved in the decision, must be looked upon as a necessary process for carrying into effect the original intentions of the court passing the decree, in respect to a point in which it may in fact be said already to have passed a formal judgment; and cannot therefore be considered as constituting a new ground of action. No. 1129, W. and C. C. 9th February 1838, ... III. 4

15. A summary award by a magistrate of wages to a servant under Section 6, Regulation VII. 1819, cannot be contested by a civil action, nor can a civil court issue an injunction to the magistrate to stay execution of his order. No. 1158, C. C. 13th July, W. C. 22d June 1838,..... III. 17

16. A civil court is not competent to entertain an action to contest the award of a military court of requests. No. 1291, W. C. 13th February, C. C. 19th March 1841, ... III. 78

II. By whom and against whom original suits may be instituted.

1. A suit may be instituted and defended by the managing *gomashteh* of a banking house, under the general power vested in him, without producing any authority from his principals for so doing. No. 75, 31st January 1811, ... I. 17

2. A *surberahar*, or manager under the Court of Wards, may institute and defend suits affecting the estate of a minor or disqualified landholder, under the instructions of the Court of Wards, but he cannot claim, as a right, the services of the Government pleader. No. 335, 2d February 1821, ... I. 137

3. In like manner an executor, or the guardian of a minor not under the Court of Wards, may institute and defend suits affecting the minor's estate. No. 335, 2d February 1821, ... I. 137

4. If a person becoming security for a bond, affix his name to the deed in recognition of his responsibility, he is liable to be sued as a party jointly with the principal, without the necessity of a security bond on a separate stamp. No. 341, 1st June 1821, I. 139

5. A zumeendar may institute and maintain one and the same suit for the recovery of the revenue of land, held exempt from the payment of revenue, which may have been alienated under two or more grants prior to the 1st December 1790. No. 346, 3d August 1821, ... I. 142

6. In reply to a letter requesting to be informed whether a suit might be instituted under Regulation VII. 1812, in favor of the Nawab Nazim, the Governor General's agent at Moorshedabad was informed, that the solution of the question depended on whether Government considered his highness in the light of a sovereign prince or not, and the Court suggested that he should apply direct to Government for information on that point. No. 377, 8th April 1825, ... I. 156

7. An action will not lie against a register for acts done in his official capacity under the rules contained in Regulation VIII. 1819, for the sale of putnee talooks. No 440, 8th December 1826, I. 185

8. Suits brought by or against an European British subject in his capacity of manager of the estate of a native, not being personal to the manager himself, should be regarded as suits instituted on the part of or against a native, and ought to be tried, like other suits in which natives are parties, by the court in which, from its amount, it may be cognizable. [*By Acts XI.* 1836, *and VI.* 1843, *European British subjects are made amenable to all the country courts.*] No. 848, C. C. 13th December, W. C. 18th October, Government 2d December 1833, II. 143
No. 967, C. C. 17th July 1835, ... II. 221

9. A, having sold a house at Mynpooree to B, locked it up, and went to a foreign country, leaving property in a room, the key of which he left with C. Some time after his departure, B, concluding that he was either dead or would not return, took the key from C and gave it to the cotwal, who opened the door, took an inventory of the property, and sent it to the magistrate, and B instituted a suit to recover the amount of his debt from the property. The judge, doubting whether he could entertain the suit against the property when no defendant was forthcoming, referred the question to the Sudder Dewanny Adawlut, who held that as the cause of action arose within the court's jurisdiction, and property was forthcoming, the case was cognizable, and should be proceeded on in the manner laid down in Sections 2 and 3, Regulation II. 1806. No. 854, W. C. 10th January, C. C. 31st January 1834,..... II. 147

10. Magistrates and other judicial functionaries who were not liable to civil actions in the country courts, for damages on account of alleged injuries committed in their official capacity before the passing of Act XI. 1836, have not been rendered so liable by that Act. No. 1051, C. C. to Government, 16th

September, Government reply, 10th October 1836, ... II. 283

11. The collector having been erroneously made a party in a suit for an act done by him under an order of the court, the judge should give the plaintiff the option, before nonsuiting him, of withdrawing the collector's name among the defendants by a supplementary plaint, and then proceed to dispose of the case, or refer it to the court by which it may be cognizable. No. 1075, C. C. 21st February, W. C. 13th January 1837, ... II. 298

12. A suit cannot be proceeded with against a defendant who has left the country, and upon whom notice of action cannot be served. No. 1343, C. C. 20th May, W. C. 17th June 1842, ... III. 92

13. Residents of foreign territories, instituting or defending suits in the Company's courts, must find security for costs, although they hold land, or other property, within the limits of the British territories. No. 1355, W. C. 5th August, C. C. 26th August 1842,..... III. 96

III. Original Suits in what District to be instituted.

1. A suit for the recovery of rent collected by the surberakar of a mocureree mehal in *Nuddea*, should be brought and tried in that district, and not in *Rajeshye*, where the defendant resided, as any local enquiry that might appear necessary could be made with greater facility and propriety under the court presiding over the jurisdiction in which the lands were included. No. 73, 4th January 1811, I. 17

2. A debt having been contracted in *Nagpoor*, where the defendant continues to reside, the subsequent execution of a bond at Allahabad, does not authorize the judge to take cognizance of the suit; as that instrument cannot be considered to be the cause of action, but merely evidence of the debt which is the cause of action. No. 351, 24th January 1823, I. 145

3. Certain suits declared cognizable by the judge of Suharunpore, because the defendants were residents of that district. No. 439, 24th November 1826, ... I. 184

4. A decree, having been passed against a military officer prior to the date on which Regulation XX. 1825, which has reference to the Act of Parliament passed in the 4th year of Geo. IV., was promulgated, was held by the Court, to all intents and purposes as good and valid, as if the Regulation of a posterior date, and the Act of Parliament which it promulgated, had never been passed. No. 443, 23d February 1827, ... I. 187

5. A moonsiff cannot take cognizance of a suit for money or personal property in which the defendant is not resident within his jurisdiction. No. 452, 15th June 1827, ... I. 191

6. A suit is cognizable against A, B, and C, in the zillah court in which the cause of action arose, though C is a resident of Calcutta, having no agent in the district. No. 721, C. C. 5th October, W. C. 9th November 1832, ... II. 58

7. In a suit for arrears of rent of an estate in zillah Tipperah, against defendants residing in zillah Hooghly, who had no property in zillah Tipperah, held that the suit being for a sum of money and the defendants all residing in Hooghly, the judge of that district was competent to take cognizance of it. No. 739, C. C. 23d November 1832, ... II. 68

8. A suit to recover a debt must be instituted in the court of the district in which the cause of action arose, or the defendant resided as a fixed inhabitant at the time of the commencement of the suit. The mere circumstance of the defendants being an occasional visitor, or having available property in the district, does not subject him to the jurisdiction of the zillah court. No. 797, W. C. 14th June, C. C. 5th July 1833, ... II. 105

9. The magistrate of Balasore having summarily decided that certain lands lay within one of the tributary estates, the zumeendar of an estate, subject to the regulations, wished to sue for the recovery of possession before the superintendent of the tributary mehals; the court held that the suit should be admitted, as the magistrate's assumption must be maintained until the contrary be shewn by a more formal enquiry after the admission of the suit. No. 864, C. C. 14th February 1834,..... II. 155

10. A, a resident of *Mynpooree*, makes advances of cash to B of *Cawnpoor*, taking a bond and agreement to deliver a certain quantity of indigo produce at C, another factory of A's in *Furruckabad*, the bond being written and the advance made at A's permanent residence. Held that A may sue B for breach of contract, either in *Mynpooree* where the cause of action arose, or in *Cawnpoor* where B resided at the time of instituting the suit. The failure of delivery in *Furruckabad* is not a circumstance, which, under the regulations, would give jurisdiction to the court of that district. No. 866, W. C. 14th February, C. C. 28th February 1834,..... II. 157

11. In a suit for the balance of rent of a farm in the *Rungpoor* district, the plaintiff and defendant being both residents of *Moorshedabad*, the court were of opinion that the suit should be tried at *Rungpoor*. No. 871, C. C. 21st February, W. C. 21st March 1834, ... II. 161

12. When in a suit for rent, the farm or other fixed property is in one district, the landlord resident in another, and tenant in a third; the suit would be triable either in the district in which the money was paid, or in that in which the defendant resided when the suit was instituted. No. 871, C. C. 21st February, W. C. 21st March 1834,..... II. 161

13. The parties in a suit are residents of the village of *Dhukraee*, of which the revenue jurisdiction belongs to *Furruckabad*, and the police and civil jurisdiction to *Mynpooree*. The plaintiff, wishing to sue to set aside the summary award of the collector of

Furruckabad for rent, would sue before the moonsiff of *Chibramow* in Furruckabad. Held that the plaintiff must sue in the court of the moonsiff of the *Mynpooree* district, in whose jurisdiction the village of *Dhukraee* is situated, for the *Furruckabad* authorities, having no jurisdiction in the village of *Dhukraee*, cannot take cognizance of the plaintiff's claim. No. 915, W. C. 21st November, C. C. 5th December 1834, ... II. 191

14. The defendant is not a resident within the moonsiff's jurisdiction, but has real property there; this would render him amenable to the moonsiff's court in cases connected with that property, but not in a suit in which both he and the plaintiff are inhabitants of a foreign territory, the cause of action having also arisen in a foreign territory. No. 956, W. C. 12th June, C. C. 10th July 1835,..... II. 215

15. In a suit for 63 villages of which 61 were situate in Beerbhoom and 2 in Moorshedabad, it was deemed proper that the suit should be tried in the former district, where the greater part of the property lay. No. 969, C. C. 31st July 1835, ... II. 222

16. A suit for the possession of property within the jurisdiction of the civil court of the 24-Pergunnahs, beyond the limits of the town of Calcutta, against a resident of Calcutta, is cognizable by the zillah court of the 24-Pergunnahs. No. 991, C. C. 11th December 1835, W. C. 8th January 1836, II. 238

IV. Original Suits in what Courts cognizable.

See "Military Cantonments, Courts, &c., Civil," Nos. 2, 3, 4.

See "Moonsiffs, II." *passim.*

See "Principal Sudder Ameens," Nos. 4, 9, 13, 16, 17.

See "Sudder Ameens," Nos 15, 17.

V. Amount of action in Original Suits.

1. A claim for land and mesne profits, the produce of the land and the mesne profits being each less than 5,000 rupees, but in the aggregate exceeding that sum, is cognizable in the first instance by the provincial court. No. 69, 30th August 1810, ... I. 16

2. In a suit by a collector for the forfeiture of an estate for resistance or evasion of process, the amount of action must be calculated on the annual jumma, and not on the amount of the arrears due. No. 386, 27th May 1825, ... I. 159

3. In a suit by a person claiming to succeed to one of the tributary mehals of Cuttack, it was determined that the value of the property should be assumed at the *peshcush*, which may be held to be the amount of the annual jumma payable to Government. No 462, 7th September 1827,..... I. 196

4 In a suit instituted by a collector against a farmer and his sureties under Sections 26 and 28, Regulation XXVII. 1803, the amount of action must be regulated by the *jumma* of the estate from which the arrear is due; and not by the amount of the fine to be levied, which is left to the discretion of the court to fix. No. 808, W. C. 2d August, C. C. 30th August 1833, ... II. 114

5. A suit instituted in the zillah court or before a moonsiff by a ryot, to obtain a reversal of the summary decision of the collector adjudging a balance against him and ejecting him as a defaulter, must be laid at the amount in dispute, or the sum sued for in the first instance. No. 862, W. C. 7th February, C. C. 28th February 1834, ... II. 156

6. Suits founded on the right of inheritance should include the whole claim arising out of the same cause of action. No. 1040, C. and W. C. 5th August 1836, ... II. 277

7. A person instituting a suit to obtain the sale of certain lands in execution of his decree, should lay his suit at the estimated selling price, [or the amount of the plaintiff's claim under the decree, supposing the selling price to have been in excess of that claim,] according to the 4th Clause of the note on Article 8, Schedule B, Regulation X. 1829, the suit being viewed as one, not for possession of, but rather for an interest in malgoozaree land, not capable of valuation under the 1st Clause of the note. No. 1301, W. C. 25th June, C. C. 16th July 1841,..... III. 81

See "Stamps III." Nos. 5, 6, 10, 11, 15, 18, 19, 20, 22, 27, 28.

VI. Limitation of action in Original Suits.

1. The limitation in Section 6, Regulation XIV. 1805, in regard to hearing of suits in which the persons specified are parties, is not applicable to cases in which the cause of action arose subsequently to the conquest of Cuttack, i. e. 14th October 1803. No. 122, 17th March 1813,..... I. 35

2. In a suit cognizable by a moonsiff, the origin of the cause of action must be reckoned from the time when the money became payable, not from the date of the bond. A simple acknowledgment of the truth of the demand will not be sufficient to constitute a new cause of action, so as to bring within the cognizance of the moonsiff a suit, the prescribed period for instituting which had elapsed. No. 196, 1st March 1815, ... I. 61

3. Notwithstanding the mention of 60 years in Regulation II. 1805, no claim can be heard which had its origin prior to the cession of the province; and this without any reference to the mode in which possession may have been, or alleged to have been obtained: consequently the rule in Clause 3, Section 18, Regulation II. 1803, remains in full force. No. 432, 26th September 1826, ... I. 181

No. 478, 18th April 1828, ... I. 203

4. In a suit instituted to obtain execution of a moonsiff's decree under the old system, the cause of action must be held to have arisen on the expiration

of one year from the date of the decree. A suit instituted 14 years after the date of the decree would be inadmissible, unless satisfactory cause be shewn for the delay. No. 495, 27th February 1829, ... I. 211

5. A *miscellaneous application* to a civil court within 12 years cannot be considered as the "preferring a claim" within the meaning of Section 14, Regulation III. 1793, so as to enable the party to bring his action *after* the expiration of that period. No. 813, C. C. 16th August, W. C. 6th September 1833,..... II. 117

6. The limitation prescribed in Regulation II. 1805, applies to the claim for a share of an ancestral undivided estate, still held by a descendant of the family, in which estate the plaintiff had no manner of possession, either as a sharer of a specific portion, or as receiving a maintenance therefrom, during the period of 12 years antecedent to the institution of the suit, no good cause [minority or the like] being shewn to excuse the delay. No. 942, W. C. 7th November 1834, 2d January and 3d April 1835, C. C. 28th November 1834, 20th February and 1st May 1835, ... II. 206

7. According to the spirit of Clause 10, Section 35, Regulation XXII. 1795, a person who has agreed to receive a maintenance, or, as the Regulation expresses it, an allowance either in money or land, from the principal *putteedar* in consideration of his right, has no claim to a personal possession or management of any portion of the estate. No 942, W. C. 7th November, 1834, 2d January and 3d April 1835, C. C. 28th November 1834, 20th February and 1st May 1835, ... II. 206

8. The provisions of Clause 4, Section 3, Regulation II. 1805, [which declares that no length of time shall be held to bar the cognizance of suits for the recovery of property in case of mortgage or deposit,] must be considered applicable as well to suits on deposits of money or other personal property as to those for lands. No. 965, W. C. 17th July, C. C. 7th August 1835, ... II. 220

9. The claims of *putteedars* to possession of their respective shares of an estate, of which one *putteedar* has obtained possession, must be preferred within 12 years from the date on which the proprietor's right was adjudged by the decree of court to the *zumeendar*, or one or more of the co-parceners, in default of which they fall under the operation of the general limitations. No. 980, W. C. 18th September, C. C. 23d October 1835,..... ..... II. 229

10. The period of one year from the date of the delivery of the collector's decision, to which the institution of a suit to set aside that decision is restricted by Section 6, Regulation VIII. 1831, must be calculated according to the rules laid down in Clauses 10 and 11, Section 8, Regulation XXVI. 1814. No. 1028, C. C. 29th July, W. C. 19th August 1836, ... II. 268

10. The petitioner's estate was sold in 1803 : objecting to the sale and not obtaining redress from the revenue authorities, he presented a petition to the provincial court in 1807, and was directed to apply to the Revenue Board. Ten years after, in 1817, he did apply to the Revenue Board, who, on the 17th February 1818, referred him to the civil court. On the 5th December 1829, [after a lapse of 11 years and nearly 10 months,] he instituted his suit in the zillah court of Behar. Held that the cognizance of the suit is barred under the general rule of limitations. No. 1036, C. C 12th August, W. C. 9th September 1836, ... II. 274

11. Regular suits to contest the summary awards of judicial authorities for rent, passed prior to the enactment of Regulation VIII. 1831, must be instituted within one year of the promulgation of that regulation. No. 1303, C. C. 16th July, W. C. 6th August 1841,..... III. 81

OUSTING OF FARMERS.

See "Zumeendars," No. 2.

PARDON.

See "Accomplices," *passim.*

PARENTAGE.

1. A person born at Chandernagore of European parents must be considered an European; the place of his birth being immaterial. No 397, 29th July 1825, ... I. 166

PAUPERS.

1. The subsistence money of pauper plaintiffs confined for litigiousness must be paid by Government. No. 9, 13th September 1805, ... I. 3

2. Women of rank, who are exempted from personal appearance in court, are not proper objects of the discretionary rule in Section 3, Regulation XLVI. 1793, and Section 2, Regulation III. 1802, which authorizes the confinement of litigious paupers. No. 11, 26th September 1805 ..... I. 4

3. The order for the confinement of litigious paupers is to be carried into effect, notwithstanding an appeal, and a further imprisonment may be ordered in the event of litigious appeal. No. 12, 18th October 1805, ... I. 4

4. The responsibility of *hazirzamins* of paupers and their property, ceases on their death ; but in the event of their absconding, notice to cause attendance of parties for whose appearance they are sureties, should be proclaimed at their houses, and in public *cutcherry;* after which, on failure to produce the parties, the fees and costs demandable may be recovered from their property. No. 34, 13th February 1808, ... I. 9

5. A pauper plaintiff, whose suit has been dismissed with costs, is liable to confinement at the instance of

the defendant, and on the deposit of the prescribed subsistence money, if he fail to pay the amount adjudged against him by the decree, in like manner with any other suitors; and of course, in common with other insolvent debtors, equally entitled to the benefit of the rules introduced in Section 11, Regulation II. 1806. No. 110, 3d September 1812, I. 30

6. When a plaintiff has paid the institution fee, and given security for the pleader's fee, he cannot be allowed to prosecute a suit in *formâ pauperis*; but in the event of an appeal from the decision, there would be no objection to his being admitted as a pauper in the appeal, on proving his poverty. No. 186, 31st August 1814, ... I. 57

7. When a pauper appoints a *vakeel*, the *vakalutnameh* must be written on stampt paper; but no *vakalutnameh* is necessary, if the pleader is appointed by the court. No. 261, 26th December 1816, I. 91

8. The suit of a pauper plaintiff being dismissed with costs, and the proceeds of the sale of his property being insufficient to pay the fees due to his pleader, with the costs and fees awarded to the opposite party, and the law expences due to Government; the judge, after payment of the vakeel's fees, should exercise his discretion in satisfying the other demands, in such manner as may appear equitable, leaving the party dissatisfied to appeal. [*See Construction* 1258, *No.* 29]. No. 621, 21st January 1831, ... II. 3

9. The vakeel of a pauper plaintiff, whose suit was dismissed, is not entitled to any portion of the fee deposited by the defendant for his vakeel. No. 740, 7th December 1832, ... II. 69

10. Security for appearance cannot be demanded from the agent of a female pauper plaintiff, nor can such agent be committed to jail on the suit preferred, through his agency, proving unfounded, vexatious, or wilfully exaggerated. No. 777, C. C. 6th April, W. C. 3d May 1833, ... II. 92

11. On an application to sue *in formâ pauperis*, the judge should restrict his enquiry to the ability or otherwise of the applicant to pay the fees required; leaving the objections of the defendant to the plaintiff's statement of the cause of action to be offered in the *answer* to the plaint, as contemplated by Section 5, Regulation XIII. 1808. [*By Act IX.* 1839, *the judge is empowered to determine, whether there is probable cause for instituting the suit, before admitting the application.*] No. 821, C. C. 30th August, W. C. 20th September 1833, II. 122

12. A plaintiff who had been allowed to sue as a pauper, becoming subsequently, pending the suit, possessed of sufficient property to nullify his plea of poverty, should be called upon to pay up the original stamp duty in lieu of institution fee, &c. under penalty, in the event of neglecting to do so, of being nonsuited. No. 904, C. C. 3d October, W. C. 7th November 1834, ... II. 184

13. Suits for the recovery of damages, said to have been sustained from not having been allowed to cultivate his lands as a *khoodkasht ryot*; or for the loss the plaintiff may have sustained from his lands having been kept out of cultivation by the opposition of the defendant having prevented him from receiving his customary share of water to irrigate his fields, may be received and tried *in formâ pauperis*; such damages not being considered of a personal nature. No. 919, W. C. 5th December, C. C. 26th December 1834, ... II. 193

14. The sureties or *hazirzamins* of paupers are liable, in the event of the principals not appearing, only to the penalty of imprisonment for six months; the costs due by the principal cannot be levied from the goods of the surety. No. 922, W. C. 19th December 1834, C. C. 26th January 1835, ... II. 195

15. No stamp duty is leviable in pauper cases, instituted in the judge's court, and afterwards referred for decision to a moonsiff. No. 945, W. C. 24th April, C. C. 29th May 1835, ... II. 208

16. A principal sudder ameen cannot receive an answer to a plaint from a defendant *in formâ pauperis*, without the sanction of the judge, it being a principle that the judge alone can determine the question of pauperism. [But see C. O. of the 11th April 1843.] No. 949, C. C. 1st May, W. C. 5th June 1835, ... II. 210

17. A person adjudged to be the *slave* of another is entitled to appeal against the decision *in formâ pauperis*; "*slavery*" not coming under the head of "*personal injuries*" [*Since the enactment of Act V.* 1843, *no suit for slavery can be brought into court.*] No. 1009, C. C. 20th May, W. C. 10th June 1836, ... II. 256

18. Persons wishing to appeal *in formâ pauperis* to the King in Council must furnish the same security as other appellants: i. e. 5,000 rupees, to cover the original costs of appeal; and 5,000 rupees to reimburse the Hon'ble the Court of Directors for expenses incurred in carrying on the appeal under 3 and 4 Will. IV. Cap. 41, Section 22. [*The total amount of security now required is* 25000 *Rs.*] No. 1033, C. and W. C. 12th August 1836, ... II. 272

19. *Hazirzaminee* bonds of paupers must be written on stampt paper. No. 1063, W. and C. C. 23d December 1836, ... II. 290

20. An order of the Sudder Dewanny Adawlut, refusing to admit an appeal *in formâ pauperis*, is not appealable to the King in Council. No. 1097, W. C. 8th July, C. C. 4th August 1837, ... II. 313

21. Applications from pauper appellants to stay execution of the decree pending appeal, as well as the *vukalutnameh* and *hazirzaminee* bonds in pauper cases, must be written on stampt paper. No. 1132, W. C. 16th February, C. C. 9th March 1838, III. 5

22. A pauper decree holder should be put in possession of the property decreed to him by an officer of Government; the cost being chargeable to the opposite party. No. 1186, C. C. 16th November, W. C. 2d November 1838, ... III. 34

23. The rules contained in Sections 12 and 13, Regulation XXVIII. 1814, are applicable to any pauper appellant, whether he was a pauper in the original suit or not. If however the appellant appeared originally as a pauper, he would of course be at liberty to file a copy of the decree of the lower court on plain paper, being entitled to such copy under Section 8 of the Regulation. No. 1207, C. C. 1st April, W. C. 26th April 1839, ... III. 48

24. The petition of a person who was a pauper in the original suit having been rejected under Clause 3, Section 12, Regulation XXVIII 1814, he is entitled to present with his petition, written on the full stamp, the copy of the decree granted to him on plain paper: he need not take out a copy on the requisite stamp. No. 1217, W. C. 17th May, C. C. 21st June 1839, ... III. 53

25. The provisions of Act IX. 1839 are considered applicable to petitions to sue *in formâ pauperis* which remained undisposed of on the date on which the Act came in force. No. 1229, W. C. 5th July, C. C. 2d August 1839, ... III. 57

26. When a zillah judge has rejected an application to sue *in formâ pauperis*, he cannot, of his own authority, admit a second application from the same party on the same matter: he must consider the second as a petition of review of his own order and act accordingly. No. 1229, W. C. 5th July, C. C. 2d August 1839, ... III. 57

27. The provisions of Act IX. 1839 have equal reference to a respondent in an appeal, as to a defendant in an original suit. No. 1250, C. C. 13th September 1839, Government 16th January 1840, III. 64

28. On the application of the guardian of a deaf and dumb person to appeal *in formâ pauperis* on behalf of his ward through an authorized agent, it was held that such application could not be received from any one, not being a female of rank of the description stated in Clause 1, Section 5, Regulation XXVIII. 1814. [*By Act XIX.* 1840, *the courts may at their discretion receive applications to appeal in formâ pauperis, from other persons than females of rank.*] No. 1254, C. C. 4th October, W. C. 8th November, 1839, ... III. 66

29. In a pauper suit after the payment of vakeel's fees, the dues of Government for stamp duty have the next claim: after which the principle of Constructions 621 is applicable to other costs incurred by Government, and other parties. No. 1258, C. C. 1st November, W. C. 6th December 1839, ... III. 67

30. A zillah judge has no authority to delegate to another the duty of making the enquiry contemplated by Section 1, Act IX. 1839, in case of parties applying to sue *in formâ pauperis*, i. e. whether there is probable cause for instituting the suit. No. 1285, W. C. 7th August, C. C. 7th September 1840, ... III. 76

31. The provisions of Clause 6, Section 2, Regulation XII. 1833, which declare that engagements between vakeels and their clients for their fees shall only be enforced by a regular suit, held to be applicable to pauper suits. No. 1297, C. C. 28th May, W. C. 18th June 1841, ... III. 79

32. The provisions of Clause 5, Section 2, Regulation XII. 1833, by which parties are allowed to settle with their pleaders for their fees, are applicable to pauper as well as other cases. No. 1309, W. C. 15th September, C. C. 22d October 1841, ... III. 82

33. If a plaintiff who has instituted his suit on stampt paper, plead pauperism when required to file a supplementary plaint to amend his original plaint, his pauperism should be enquired into, and, if established, his prayer should be granted. No. 1313, W. C. 3d December, C. C. 31st December 1841, ... III. 83

34. A decision passed in favor of a pauper plaintiff by the lower court cannot be appealed against by the defendant [not a pauper] on plain paper: but the appealing defendant may be allowed a copy of the lower court's decree on plain paper for presentation with his petition of appeal. No. 1314, C. C. 10th December 1841, W. C. 10th January 1842, III. 84

35. An appeal lies to the Courts of Sudder Dewanny Adawlut from the order of a zillah or city judge, passed under Section 1, Act IX. 1839, rejecting an application to sue *in formâ pauperis*. No. 1356, C. C 22d July, W. C. 19th August 1842, ... III. 96

PAY OF A MILITARY OFFICER OR SEPOY.

See "Military Cantonments, Courts, &c. Civil," Nos. 5 and 6.

PENALTY.

I. For breach of Opium Laws.

See "Opium," No. 1.

II. For breach of Salt Laws.

See "Salt," *passim.*

III. For non-delivery of articles of Company's Investment.

See "Company's Investment," No. 2.

IV. On arrears of Rent.

See "Jureemana," No. 1.

V. On undue exaction of Rent.

1. The penalty prescribed for undue exaction of rent is exclusive of the refund of the sums proved to have been illegally levied. No. 125, 22d April 1813, I. 36

PENSIONS.

1. Claims upon Government for pensions are cognizable only by collectors, under Regulations XXIV. 1793, XXXIV. 1795, and XXIV. 1803, (subject to an appeal to the Board of Commissioners and the Governor General in Council,) and not by the civil court. No. 230, 12th January 1816,... I. 76

2. Claims to pensions even when granted in commutation or indemnification of land, which have not been recognized and confirmed by the revenue authorities, or by Government, are not cognizable by the civil courts; and as Government cannot be sued, the collector cannot be liable to an action for declining to pay an unauthorized pension. No. 343, 6th July 1821,..... I. 140

3. Pensions granted by Government are not liable to attachment in execution of decrees. No. 788, 3d May 1833, ... I. 99

4. Pensions payable from the Benares treasury under the provisions of Section 2, Regulation XXXIV. 1795, are not transferable by sale, gift, or otherwise, for a longer period than the lives of the original grantees; and, on failure of the heirs of the original grantees, they must be considered to escheat to Government as lapsed or expired grants. No. 988, W. C. 20th November, C. C. 18th December 1835,.....II. 236

PEONS.

1. The *sudder ameens* are to be guided, in regard to *tulubana*, by the rules in force for the guidance of the zillah and city judges previous to the enactment of Regulation V. 1831 No. 668, 13th January 1832,..... II. 31

2. The native judges are to nominate the *muzkooree peons*, to be employed to serve their processes; and the zillah judge will select from those nominated such as he may think fittest for the duty. No. 762, W. C. 22d February, C. C. 15th March 1833, ... II. 85

3. The peons attached to the courts of the moonsiffs under Section 5, Regulation VII. 1832, are intended exclusively for the execution of judicial processes, and should not be employed in the distraint and sale of property for arrears of rent. [*Act I. of 1839 cancelled the power of moonsiffs to act as agents for the sale of property attached for arrears of rent.*] No. 861, W. C. 7th February, C. C. 28th February 1834, ... II. 155

4. A zillah judge is not competent to interfere in regard to the payment of the *tulubana* of the nazir's peons. No. 1084, C. and W. C. 31st March 1837, ... II. 305

5. The case of a *peon* on the establishment of a Government functionary making away with money entrusted to, or collected by him, does not come within the meaning of Regulation II. 1813; such offence is considered to be a misdemeanor, and punishable as such under the general regulations. No. 1200, C. C. 18th January, W. C. 1st February 1839, ... III. 44

6. In a suit, cognizable by a moonsiff, referred to a principal sudder ameen under Section 5, Act XXV. 1837, that officer is not tied down by the restrictions imposed on moonsiffs regarding *tulubana* for the service of process. No. 1362, W. C. 26th August, C. C. 9th September 1842, ... III. 98

PERIOD FOR APPEALING.

See "Limitation of Appeal in Civil Suits," "Limitation of Appeal in Criminal Courts."

PERJURY.

1. Construction 52 has been superseded by the rules of Regulation XVII. 1817. No. 52, 4th November 1809, ... I. 12

2. Native commissioners cannot commit for perjury but must refer the matter to the judge, *but a register may.* [*The latter part is superseded by Construction* 285.] No. 87, 12th April 1811, I. 20

3. A false deposition, on oath, or solemn declaration, containing a deliberate and specific criminal charge, which the deponent knows to be unfounded, and which appears also to be malicious, is within the provisions of perjury, contained in Regulation II. 1807; notwithstanding the provision for malicious, vexatious, and unfounded charges in Section 5, Regulation VII. 1811. No. 233, 29th January 1816, I. 77

4. When perjury is committed before a register, he should transmit his proceedings to the judge, who, if he be of opinion that there are sufficient grounds for bringing the accused to trial, will commit the case, and the magistrate will include it in his calendar as if the commitment had been made by himself. No. 285, 4th February 1818, ... I. 107

5. A judge is not competent to commit a person for trial on the charge of giving money to witnesses in a civil suit, for the purpose of influencing their evidence. No. 504, 25th April 1829, ... I. 215

6. There is no regulation which exempts females convicted of perjury from *tusheer*. No. 506, 8th May 1829, ... I. 215

7. The registry of deeds being a "civil proceeding," within the meaning of Clause 2, Section 14, Regulation XVII. 1817, in case of perjury committed before the register of deeds, the judge and register should proceed according to that clause, and not make over the matter to the magistrate. No. 611, 25th November 1831, ... I. 253

8. A deposition taken on oath in the private dwelling of a sudder ameen is illegal, and a charge of perjury cannot be sustained on such a deposition. No. 627, 28th February 1831, ... II. 6

9. Constructions 638 and 656 contain the Court's opinion on the subject of perjury and the measure of

evidence required to prove the crime, with a futwa of their law officer on the subject. No. 638, 27th May 1831, ... II. 10
No. 656, 2d September 1831, ... II. 18

10. While a case under Regulation XV. 1824, was pending before the magistrate, it was competent to him to make a commitment for forgery or uttering forged deeds; but not after he had referred the investigation of that point to the civil court. As the sudder ameen, who decided the civil case, did not take any notice of the alleged forgery, and the case was pending in appeal before the judge, the magistrate was directed to instruct the parties to apply to the judge for permission to prosecute for forgery in the criminal court, the deed bearing palpable marks of forgery. No. 820, 23d August 1833, ... II. 122

11. The wilful concealment of bond debts due to an insolvent debtor, examined on oath under the rules contained in Section 11, Regulation II. 1806, is punishable on conviction as wilful perjury under Clause 1, Section 13, Regulation XVII. 1817. No. 1086, C. C. 14th April, W. C. 28th April 1837, ... II. 306

12. As Section 22, Regulation XII. 1817, does not invest revenue officers with power to examine parties on oath in regard to pensions referred to in Regulation XXIV. 1803, it was held that a prosecution for perjury could not be maintained against a party charged with having in such a case falsely deposed on an oath administered by a collector. Had the act of perjury been committed in the course of an investigation into the conduct of a native officer authorized to pay pensions, Clause 5, Section 10, Regulation VIII. 1809 would apply. No. 1106, W. C. 8th September, C. C. 6th October 1837, ... II. 322

13. Wilful and designed prevarication in a witness, though not amounting to perjury, is punishable as a contempt of court. [*This Construction is rescinded by the W. C. on 14th December 1842, C. C. 27th January 1843.*] No. 1177, C. C. 5th October, W. C. 14th September 1838, ... III. 30

PERSONAL DAMAGES.

See "Damages," Nos. 2, 5, 6.
"Moonsiffs, II." Nos. 5, 15, 19.
"Paupers," No. 13.

PETITIONS, MISCELLANEOUS.

See "Stamps, VI."

PETITIONS OF PLAINT AND APPEAL.

See "Stamps, III." *passim.*

PETTY OFFENCES.

See "Reference of Criminal Cases to Law Officer and Sudder Ameen," *passim.*

PLAINT.

See "Stamps, III," *passim.*

PLEADERS IN CIVIL COURTS.

1. It is not necessary to impose on a pleader the full fine for non-attendance, if a less fine appear adequate. No. 18, 8th February 1806, ... I. 6

2. The fee of a second pleader appointed by parties is to be levied in common with other fees of pleaders. No. 38, 22d June 1808, ... I. 9

3. A *mokhtar* duly constituted, may appoint a pleader, and execute a *vakalutnameh*, authorizing him to conduct the suit. No. 92, 19th September 1811, ... I. 23
No. 417, 28th April 1826, ... I. 175

4. The pleaders of a civil court may be called upon to attest confessions before the magistrates, and are liable to dismissal for refusing to do so. No. 101, 23d April 1812, ... I. 26

5. The levying of pleaders' fees cannot be stayed by an appeal from the decision. No. 110, 3d September 1812, ... I. 29

6. *Vakeels* are liable to no charge on their fees, beyond the value of the stamp on which the receipt for the same is to be written. No. 156, 21st April, 1814, ... I. 48

7. If a plaintiff, instead of preferring his complaint in person, employ a vakeel to prefer it, he must deposit the full fee. [*Under Regulation XII. 1833, it is now optional with the plaintiff to deposit his pleader's fee or not.*] If the suit be referred to register or *sudder ameen*, the full fee will be kept in deposit for the *vakeel* who may conduct the suit in those courts; and should he not be the same who filed the plaint, the court may award the latter a fee of 4 annas, or such fee as may appear adequate, not exceeding $\frac{1}{4}$ of the full fee, though in general a fee of 4 annas is sufficient. No. 197, 1st March 1815, ... I. 61

8. If a suit be decided in favor of the plaintiff, on the acknowledgment of the defendant without an investigation of the merits, the *vakeels* will be entitled to the full fee: but if it be dismissed on *razeenameh*, no formal judgment being passed, the *vakeels* will be entitled to $\frac{1}{4}$ or $\frac{1}{2}$ the full fee, according as the *razeenameh* may have been filed before or after the filing of the pleadings. No 209, 1st June 1815, I. 67

9. When a pauper appoints a *vakeel*, the *vukalutnameh* must be written on stampt paper. But no *vakalutnameh* is necessary if the pleader is appointed by the court. No. 261, 26th December 1816, I. 91

10. By Construction 300 it was ruled on the 29th January 1817, that under Section 32, Regulation XXVII. 1814, vakeels employed in summary suits for rent, were *entitled* to $\frac{1}{4}$ of the fee which they would have received, had the suit been regular. But on the 11th December 1818, it was held by Con-

struction 297, that as that Section had been rescinded by Section 9, Regulation XIX. 1817, which makes the rule contained in Clause 11, Section 2, Regulation XXVI. 1814, applicable to such summary suits as well as to summary appeals from dismissals on default, the court is at liberty to reduce the fee to such sum as may appear reasonable. No. 297, 11th December 1818, ... I. 118

No. 300, 29th January 1817, ... I. 120

11. A *surberakar* acting under the Court of Wards, cannot claim, as a matter of right, the service of the Government pleader in a case in which the interests of Government are not concerned. No. 335, 2d February 1821, ... I. 137

12. In cases adjudged by *razeenameh*, after the evidence has been completed, the *vakeels* are entitled to the full fee. No. 418, 5th May 1826, ... I. 175

13. The order of Government, or of a Government officer, to the Government pleader, to plead in a suit in which Government is a party, may be accepted as his *vakalutnameh*, though written on unstampt paper. No. 420, 26th May 1826, ... I. 176

14. When a vakeel is employed by two defendants under separate *vakalutnamehs*, he is entitled to receive from each the full fee, and the whole amount of fees due is chargeable to the plaintiff on the dismissal of the suit. No. 500, 3d August 1829, ... I. 213

15. The pleaders of the Sudder Dewanny Adawlut may present petitions to the Nizamut Adawlut. No. 563, 18th June 1830, ... I. 236

16. The zillah judge may make such allotment and distribution of the pleaders attached to the courts of the sudder ameens as may appear proper, and his orders are not open to appeal to the provincial court. No. 593, 6th May 1831, ... I. 247

17. The *vakeels* of one court not being allowed to plead in another, the commissioner of Cuttack was held justified in preventing the *vakeels* of the zillah court of Cuttack, from acting as *mokhtars* in his court. No. 602, 14th October 1831, ... I. 250

18. The provisions of Section 7, Regulation IX. 1831, [which authorize pleaders to settle with their clients for the amount of their fees in summary cases, and all others in which the regulations do not require a deposit of the fee,] have reference to the zillah and city courts, as well as to the Courts of Sudder Dewanny Adawlut. [*Regulation XII.* 1833, *authorizes the parties in regular suits to settle with their pleaders without making any deposit.*] No. 711, W. C. 24th August, C. C. 21st September 1832, ... II. 54

19. The vakeel of a pauper plaintiff, whose claim was dismissed, is not entitled to any portion of the fee deposited by the defendant for her vakeel. No. 740, C. C. 7th December 1832, ... II. 69

20. The payment of vakeels' fees cannot be stayed on the ground that an appeal has been instituted from the decision, even though the defendant should be confined on failure to pay the fees due on account of a decree given against him in favor of a pauper. No. 776, W. C. 4th April, C. C. 3d May 1833, II. 91

21. The *vakeels* of the courts of sudder ameens and principal sudder ameens are equally entitled with those of the zillah and city courts to demand fees for furnishing legal opinions on points of law, in particular cases which may be referred to them by the parties interested. No. 802, W. C. 5th July, C. C. 2d August 1833, ... II. 109

22. No appeal lies to the Sudder Dewanny Adawlut from the order of a zillah or city judge, dismissing the vakeel of a moonsiff's court. No. 846, C. C. 6th December, W. C. 27th December 1833, ... II. 142

23. A *vakalutnameh* executed on the original institution of the suit, unless cancelled by the party or otherwise set aside, must be considered as operative and in full force, until the final judgment shall have been enforced. No. 852, W. C. 27th December 1833, C. C. 17th January 1834, ... II. 145

24. There is no regulation that prohibits the courts from deputing *vakeels* to make local enquiries: but the Sudder Dewanny Adawlut consider the measure as of doubtful expediency in general. No. 901, W. C. 26th September, C. C. 24th October 1834, ... II. 183

25. The zillah and city judges should exercise no interference in regard to the remuneration by their clients of the vakeels of the moonsiffs' courts. No. 990, C. C. 11th December 1835, W. C. 2d January 1836, ... II. 237

26. To entitle the pleaders to ½ of the full fee in cases withdrawn or dismissed on default, it is requisite that the whole of the pleadings should have been filed, not merely the answer or *juwab dawee.* No. 1052, W. C. 14th October, C. C. 11th November 1836, ... II. 284

27. When a pleader has been dismissed by a zillah judge, it is not competent to the judge's successor to permit that pleader to practise, without sanction being obtained from the Sudder Dewanny Adawlut to review the order for dismissal. No. 1082, W. C. 31st March, C. C. 14th April 1837, ... II. 303

28. When a pleader who has been dismissed, refuses or neglects to give up his *sunnud* of office, the judge should summon him to attend at his court; and in the event of his neglecting to attend, or attending, to give up his sunnud, the judge is competent to punish him for evasion of process, or contempt of court. No. 1083, C. C. 31st March, W. C. 21st April 1837, ... II. 304

29. When a suit has been sent back for re-trial, the pleaders in the original case should be required to refund the fees received by them, leaving it to the court who eventually decide the case to apportion to them such part of the authorized fee as may appear an adequate remuneration for the trouble they had taken in the matter. [*This supersedes Construction* 840, *which required that a second full*

fee should be deposited.] No. 1105, W. C. 8th September, C. C. 20th September 1837,..... II. 320

30. The mere circumstance of a vakeel of the judge's court being authorized by that officer, under the discretionary power vested in him by Clause 3, Section 18, Regulation V. 1831, to practise in the court of a principal sudder ameen, either in any case, or particular class of cases [such, for instance, as those in which Government or its officers are parties,] cannot be considered as constituting such vakeel, a vakeel of the principal sudder ameen's court within the intent and meaning of Clause 1 of the same Section, which prohibits the principal sudder ameens from trying suits in which their vakeels are parties. [*This prohibition has been removed by Section* 1, *Act XXVII.* 1838, *the Construction, however, still applies to the vakeels of the courts of the sudder ameens.*] No. 1149, W. C. 27th April, C. C. 18th May 1838,..... III. 13

31. A pleader appointed under Section 2, Regulation XII. 1833, can practise *under the rules contained in the enactment* in the judge's court only: but he may be authorized by Clause 3, Section 18, Regulation V. 1831, to practise in the court of the principal sudder ameen under the rules in force for that court. [*By a Government notification dated 8th June* 1841, *the provisions of Regulation XII.* 1833, *have been extended to the courts of the principal sudder ameens and sudder ameens in the Lower Provinces; and by a Circular Order, Sudder Dewanny Adawlut, Western Provinces, dated* 27*th September* 1839, *to the principal sudder ameens and sudder ameens in the Western Provinces.*] No. 1168, C. and W. C. 17th August 1838, ... III. 26

32. The provisions of Clause 6, Section 2, Regulation XII. 1833, which declare that private engagements between pleaders and their clients, are only to be enforced by a regular suit, apply equally to pauper as to other suits. No. 1297, C. C. 28th May, W. C. 18th June 1841, ... III. 79

33. The provisions of Clause 5, Section 2, Regulation XII. 1833, by which parties are allowed to settle with their pleaders for their fees, are applicable to pauper as well as other cases. No. 1309, W. C. 15th September, C. C. 22d October 1841, III. 82

34. Money deposited in court as payable to a party, should never be paid to a vakeel, save under specific authority conveyed in the *vakalutnameh*: and for any sum paid away in any other mode, the officer making the disbursement must be held personally responsible. No. 1360, W. C. 5th August, C. C. 9th September 1842,..... III. 97

PLEADERS IN CRIMINAL COURTS.

1. A single judge of circuit holding a session of jail delivery, is competent, in concert with his law officer, to allow a person held to bail, to attend and plead by a *vakeel* duly constituted; when strong and sufficient reasons may be stated for dispensing with his personal attendance, and his attendance in person is not required by the provisions of the Mahomedan law. The *vakeel* need not be one of the regular pleaders of the court. No. 295, 27th August 1818,..... I. 117

2. The "*vakeel*" alluded to in Section 3, Regulation XV. 1824, need not be one of the constituted pleaders of the civil court, though they may be allowed to act as agents in criminal cases. The persons so employed, must be left to settle with their constituents for the amount of fee to be paid for their trouble. No. 371, 26th November 1824, ... I. 154

3. The vakeels of the Sudder Dewanny Adawlut may present petitions to the Nizamut Adawlut. No. 563, 18th June 1830, ... I. 236

4. A magistrate is competent to refuse to acknowledge a mokhtar in his court, who may be proved guilty of any gross misconduct in the execution of his duty in that capacity. [See also Construction 809, No. 6.] No. 607, 18th November 1831, ... I. 252

5. Persons appealing from the orders of magistrates may employ whom they please to conduct their appeals. Such agents must secure their remuneration before hand, and are entitled to no assistance to enforce their demands afterwards. No. 642, 10th June 1831,..... II. 13

6. In continuation of Construction 607, the Court ruled that one proved act of gross misconduct in a mokhtar is sufficient to warrant his general rejection. No. 809, C. C. 2d August, W. C. 6th September 1833, ... II. 115

7. Parties committed for trial before the sessions court and not exempted from personal attendance under Section 3, Regulation VI. 1818, may be allowed to avail themselves of the advice of vakeels or agents; but such vakeels or agents cannot be permitted to plead, or interfere in any way in the court's proceedings. No. 1012, C. C. 10th June, W. C. 20th June 1836,..... II. 258

PLEADINGS.

See "Stamps, IV."

POLICE OFFICERS.

1. The constructions 49, 50, and 51, relating to the report to be made to the court of circuit on the appointment and removal of police officers, are now obsolete,—the control over all the officers of a magistrate's court, police or ministerial, being vested in the superintendent of police. Nos. 49, 50, and 51, 3d October 1809,..... I. 12

2. A police darogha may summon respectable persons to attest confessions, reporting to the magistrate the cases of persons refusing to attend. No. 101, 23d August 1812, ... I. 26

3. Police daroghas do not possess the power of compelling the appearance before them of persons acquainted with the commission of offences. No. 189, 7th December 1814,..... ..... I. 59

4. Police daroghas are not required to perform the duties prescribed by Section 22. Regulation I. 1812, to prevent an evasion of the custom duties. No. 317, 30th June 1820, ... I. 130

5. Police officers are strictly prohibited from taking cognizance of cases of burglary or theft unattended with personal violence, unless the injured party request their interference by a written petition. No 708, W. C. 27th July, C. C. 24th August 1832, ... II 51

6. Though thanehdars and other police officers do not come strictly within the terms of Section 9, Regulation XIII. 1793, Section 12, Regulation XII. 1803, and Section 10, Regulation X. 1806, the magistrate, if he have reason to suspect that a charge of corruption against such officer is false and unfounded, may require the person preferring it to give security for his attendance till the final decision of the case. No, 731, W. C. 2d November, C. C. 30th November 1832,..... II. 63

7. A police mohurrir would not be justified in refusing to record any declaration or confession which a prisoner may wish to make. No. 733, C. C. 9th November 1832,..... II. 64

8. Section 8, Regulation XI. 1831, which gives commissioners the control over the magistrates' orders in regard to the appointment of police officers, is applicable to the whole of the ceded and conquered provinces, and not to those districts only in which *tuhsealdary* establishments are entertained. No. 736, W. C. 9th November, C. C. 7th December 1832, ... II. 75

9. Police officers have no authority to interfere in regard to the transfer of property bought and sold. No. 747, W. C. 30th November, C. C. 28th December 1832,..... ..... II. 73

10. The magistrate of Burdwan was censured for arresting a police darogha of Beerbhoom, while in the execution of his duty, in serving a warrant issued to him by the magistrate of the latter district, and was informed that he should have postponed requiring the *darogha's* attendance until he had completed the duty on which he was deputed by his immediate superior. No. 851, 26th December 1833, ... II. 145

11. An appeal lies from the magistrate's order regarding all police officers, without reference to the amount of their salary. No. 907, W. C. 10th October, C. C. 7th November 1834, ... II. 185

12. Where the magistrate has thrown out a charge of corruption against a police officer, the case is cognizable not by the superintendent of police but by the session judge, who may receive the appeal, and, if he think proper, direct the magistrate to commit. [*Under Act XXXI.* 1841, *the magistrate's order acquitting the accused is final according to the Construction of the N. A. for the Lower Provinces.*] No. 1134, C. C. 2d March, W. C. 16th February 1838,..... III. 6

13. A magistrate may refer a case of rape to a darogha for investigation. No. 1174, C. C. 21st September, W. C. 31st August 1838, ... III. 29

14. Police officers are not authorized to levy fines on account of cattle trespassing. No. 1176, C. C. 21st September, W. C. 31st August 1838, ... III. 30

15. A session judge may order the dismissal of any police officer convicted on a trial in the session court of an offence which may require his removal from office. No. 1328, C. C. 1st March, W. C. 15th April 1842, ... III. 87

16. A thanadar may enter on an enquiry into a charge of rape preferred directly at the thanah—no complaint having been, in the first instance, preferred to the magistrate. No. 1365, W. C. 19th November, C. C. 9th December 1842,..... III. 98

POST OFFICE.

1. The provincial courts are at liberty to receive petitions from officers of the judge's or magistrate's court by dawk and act thereupon. No. 344, 13th July 1821, ... I. 141

2. A commissioner may call for the magistrate's proceedings on information received by dawk, if such measure appear to him necessary for the ends of justice; but a party is not regularly entitled to have his petition attended to, unless presented by himself in person, or by his representative duly authorized. No. 513, 17th July 1829, ... I. 218

3. The Nizamut Adawlut have no authority to exempt zumeendars paying a small revenue to Government from contributing to the expense of the establishment of dawk runners: but the magistrate, in enforcing the provisions of Regulation XX. 1817, will exercise his discretion according to the circumstances of each case, leaving the party dissatisfied to appeal. No. 728, 26th October 1832, ... II. 61

4. To legalize a conviction under Section 32, Act XVII. 1837, the prosecution should *originate* with the officer of the post office department The magistrate has no power to mitigate the fine of 50 rupees for the offences described in Sections 9 and 10 of the Act, and the fine if not paid must be levied under the rules of Act II. 1839. No. 1204, W. C. 15th March, C. C. 1st April 1839, ... III. 45

5. The mere act of writing a letter which is forwarded by a private post, does not necessarily subject the writer of it to punishment as an accessory to its conveyance. But if A deliver a letter to B for the purpose of his conveying it by post, for hire, from one place to another, and B so conveys it, A is accessory before the fact to such conveyance within the meaning of Act XVII. 1837. No. 1263, W. C. 22d November 1839, C. C 3d January 1840, III. 69

6 With reference to the words "by post" in Section 5, Regulation XVII. 1837, it was held that

the mere conveyance from place to place, for hire or a consideration, constitutes the act made penal by the section quoted. No. 1288, W. C. 30th October, C. C. 20th November 1840,..... III. 77

7. Sections 33 and 35, Act XVII. 1837, are not applicable to European British subjects resident in the Mofussil. No. 1296, W. C. 21st May, C. C. 18th June 1841, ... III. 79

8. Putneedars are included in the terms "landholders, proprietors, and farmers of land," made use of in Clause 4, Section 10, Regulation XX. 1817, and are therefore liable to be called on to name and appoint persons to convey the dawks. No. 1364, C. C. 2d September, W. C. 23d September 1842,..... III. 98

POSTPONED TRIALS.

1. A judge of circuit having postponed a trial for further evidence, is not competent to complete it, he being no longer in that situation. The trial must be completed by the judge who holds the next ensuing sessions. No. 81, 15th March 1811, ... I. 19

2. In a postponed trial, the attendance of the prosecutor and witnesses, who had gone to their homes in the Oude territory, not being procurable, the case should be brought on at the next sessions, when the prisoners should be acquitted, if the magistrate should be unable to lay before the judge of circuit evidence sufficient for their conviction, although they might be held to security for their future good behavior, previous to their release, if, on consideration of the proceedings held in the case, there should appear sufficient grounds to warrant that measure. No. 200, 29th March 1815,..... ..... I. 63

3. If, in a committed case, neither prosecutor nor witnesses attend at the session, the trial should be postponed to the next session, and the magistrate directed to adopt every practicable measure for causing their attendance; after which, if no sufficient reason appear for again postponing the trial, the prisoner should be discharged, with or without security, as may appear proper in consideration of the magistrate's proceedings on the commitment. No. 256, 21st August 1816, ... I. 89

4. When in a postponed trial commenced before a jury, it may be impracticable from death or other cause to procure the attendance of all persons composing the jury, new jurors should be appointed in the room of those whose attendance cannot be procured; the former evidence should be read over to them, and fresh evidence taken, in the same manner as formerly, when a postponed trial came on before a circuit judge and law officer, who did not sit on the original trial. No. 828, C. C. 13th September, W. C. 4th October 1833,..... II. 127

POTTAHS.

1. The existing regulations do not authorize any summary process in case of complaints of *ryots* or other under tenants against landholders or farmers, for refusing to grant *pottahs* or give receipts: but on the ryots establishing their claims to receipts or pottahs in a regular suit, they are entitled to receive them as well as damages from the party refusing. No. 67, 16th August 1810,..... I. 16

2. Regulation V. 1812, contains no provision for a summary suit, to compel *ryots* to take pottahs and give kuboolyuts: but the landholder may proceed in conformity with Section 5, Regulation IV. 1794, and Sections 9 and 10, Regulation V. 1812. No. 257, 4th September 1816, ... I. 89

See "Stamps, II." No 13.

PRACTICE.

1. If the defendant do not appear in person or by vakeel, within the time limited in the proclamation prescribed by Section 11, Regulation IV. 1793, the suit should be tried *exparte:* but if the defendant appears, at any time before the final decision of the suit, and assigns satisfactory reasons, to shew that the default was not wilful, he should be permitted to file his answer, notwithstanding the commencement of an *exparte* investigation; and adduce evidence in support of it, if the merits of the case appear to require it. No. 375, 4th February 1825, ... I. 155

2. A person whose security had been tendered in a cause about to be appealed to the King in Council, petitions the Sudder Dewanny Adawlut against its acceptance, and prays that the security bond may be cancelled and returned to him. The appellant who filed the bond prays that it may be restored to him. The majority of the Court held that the document should be returned to the appellant as the party by whom it was filed, and a copy of it retained in the office; and rejected the petitioner's application. No. 524, 4th September 1829, ... I. 223

3. The original exhibits and other papers, and documents and deeds filed in a suit, being missing, the parties are at liberty to file copies of such of the missing papers, as they may have by them, or be able to furnish. No. 869, 14th February 1834, II. 158

4. If a defendant absent himself after filing his answer, a notice of eight days should be affixed in the court house; and in the event of the defendant's not appearing within that time, the case should be tried *exparte.* No. 1317, W. C. 18th January, C. C. 11th February 1842,..... III. 85

PREEMPTION.

See "Stamps, III." No. 18.

PREFERRING A CLAIM.

See "Original Suits, VI." Nos. 5, 10.

PREVARICATION.

See "Perjury," No. 13.

PRINCIPAL SUDDER AMEENS.

1. No appeals are cognizable by a principal sudder ameen but those which may have been referred to him by the judge with the sanction of the Sudder Dewanny Adawlut. No. 676, 24th February 1832, ... II. 34

2. The judge may employ the principal sudder ameens in the same manner as other sudder ameens, in the adjustment of accounts, or in the investigation of disputes, or special matters of account, fact, or usage, connected with the execution of decrees passed in the judge's court; *but under the regulations in force no authority exists for referring to such officers applications for the execution of other decrees than those passed in the courts of the sudder ameens and moonsiffs.* [*By Act V.* 1836, *applications for the execution of decrees generally may be referred to principal sudder ameens.*] No. 761, W. C. 22d February, C. C. 15th March 1833, ... II 84

3. A principal sudder ameen cannot confirm a decision in appeal without summoning the respondent. No. 796, W. C 14th June, C. C. 5th July 1833, II. 105

4. A suit to which the collector is a party cannot be referred to a principal sudder ameen [*Superseded by Act XI.* 1836, *and Construction* 1112] No. 801, W. C. 5th July, C. C. 2d August 1833, II. 109

5. A principal sudder ameen cannot confine a defendant without the sanction of the judge. No. 947, W. C. 1st May, C. C. 22d May 1835, ... II. 209

6. A principal sudder ameen cannot allow a defendant to plead *in formâ pauperis* without the sanction of the judge, it being a principle that the judge only can determine the question of pauperism. [*But see C. O. of the* 11*th April* 1843.] No. 949, C. C. 1st May, W. C. 5th June 1835, ... II. 210

7. Summary suits for dispossession cannot be referred to principal sudder ameens. [*Superseded by Section* 8, *Act XXV.* 1837, *under which any miscellaneous matter may be referred to these officers.*] No. 995, C. C. 24th December 1835, W. C. 22d January 1836, ... II. 241

8. When a judge has modified or confirmed the order of a principal sudder ameen imposing a fine, he may refer the case to that officer for execution [*But see Circular Order S. D. A.* 16*th September* 1842] No. 1020, C. C. 1st July, W. C. 22d July 1836, ... II 263

9. Suits regarding slavery are cognizable by the native judges, though it is considered inexpedient that they should go before a native judge, if the reference to an European judge be practicable. [*Suits regarding slavery cannot now be brought in any of the courts, Act V. of* 1843.] No. 1022, C. C. 8th July, W. C. 15th July 1836, ... II. 264

10. A principal sudder ameen trying an appeal from the decision of a moonsiff, cannot refer the case to the moonsiff for further investigation: but if he be of opinion that the moonsiff has improperly nonsuited a case, he should return it to the judge with his opinion that the moonsiff should be directed to re-admit and try it on its merits. No. 1023, C. C. 6th July, W. C. 5th August 1836, ... II. 244

11. A principal sudder ameen trying a case sent back by the Sudder Dewanny Adawlut for re-trial, is competent to adjudge the costs in all the courts, as may appear just; his order being of course open to appeal No. 1037, C. C. 12th August, W. C. 2d September 1836, ... II. 275

12. The decrees of principal sudder ameens need not be written on English paper. [*But see Circular Orders, Sudder Dewanny Adawlut,* 21*st May* 1841 *and* 30*th December* 1842.] No. 1109, W. C. 15th September, C. C. 27th September 1837, II. 324

13. Suits in which Government and its officers are parties are referrible to principal and other sudder ameens. No. 1112, W. and C. C. 10th November 1837, ... II. 327

14. Pleadings in suits exceeding 5000 rupees, referred to the principal sudder ameens, must be written on stamp value one rupee. No. 1118, W. C. 15th December 1837, C. C. 5th January 1838, ... II. 331

15. Appeals from orders passed by principal sudder ameens under Clause 6, Section 3, Regulation VII. 1825, in execution of their own decrees in suits above 5000 rupees, also all summary appeals from the decisions of principal sudder ameens under Sections 4 and 5, Regulation II. 1806, in cases exceeding 5000 rupees, lie to the Sudder Dewanny Adawlut. But appeals in all other summary or miscellaneous proceedings transferred to the principal sudder ameens under Section 8, Act XXV. 1837, whether the amount exceed or be less than 5000 rupees, lie in the first instance to the judge and specially to the Sudder Dewanny Adawlut. No. 1148, W. C. 27th April, C C 11th May 1838, ... III. 12

16. The provisions of Act XXV. 1837, in extending the powers of the principal sudder ameens do not affect that part of Clause 1, Section 18, Regulation V. 1831, which prohibits the reference to those officers of suits in which themselves, their relatives or dependants, *or the vakeels or officers of their court,* may be a party. [*Section* 1, *Act XXVII.* 1838, *rescinds so much of the above clause as prohibits the reference to principal sudder ameens of suits in "which the vakeels or officers of their courts" are parties*] No. 1149, W. C 27th April, C. C. 18th May 1838, ... III. 14

17. But the mere fact of a vakeel of the judge's court being authorized by that officer, under the discretionary power vested in him by Clause 3, Section 18, Regulation V. 1831, to practise in the court of a principal sudder ameen, either in any particular case, or particular class of cases, such as for instance those in which Government or its officers may be a party, cannot be considered as constituting such vakeel a

vakeel of the principal sudder ameen's court, within the intent and meaning of Clause 3 of the section cited. [*By a Government notification, dated 8th June* 1841, *the provisions of Regulation XII.* 1833, *have been extended to the courts of the principal sudder ameens and sudder ameens in the Lower Provinces; and by Circular Order, Sudder Dewanny Adawlut, Western Provinces, dated 27th September* 1839, *to the principal sudder ameens and sudder ameens in the Western Provinces.*] No. 1149, W. C 27th April, C. C. 18th May 1838, ... III. 14

18. The law does not require that the judge should confirm all appointments by the native judges of the ministerial officers of their respective courts. This interference should be restricted to prevent the appointment of improper persons, and the dismissal, without good and sufficient reason, of those already appointed. No. 1160, W. C. 27th July, C. C. 17th August 1838,..... III. 18

19. A pleader appointed under Section 2, Regulation XII. 1833, can practise *under the rules contained in that enactment* in the judge's court only: but he may be authorized by Clause 3, Section 18, Regulation V. 1831, to practise in the court of the principal sudder ameen under the rules in force for that court. [*By a Government notification dated 8th June* 1841, *and a Circular Order for the Western Provinces dated 27th September* 1839, *the provisions of Regulation XII.* 1833 *have been extended to the courts of the principal sudder ameens and sudder ameens in the Lower and Western Provinces.*] No. 1168, C. and W. C. 17th August 1838, ... III. 26

20. An appeal on the merits lies from the decisions of principal sudder ameens in suits under Regulation XLIX. 1793. [*Obsolete.*] No. 1202, C. C. 15th February, W. C. 8th March 1839,... III. 44

21. A judge cannot transfer of his own authority to a principal sudder ameen applications for the execution of the decrees of moonsiffs appointed under Regulation V. 1831: all decrees passed by moonsiffs must, under Section 7, Regulation VII. 1832, be enforced by those officers, except under such circumstances as would have precluded them by law from hearing and determining a regular suit No. 1223, W. C. 7th June, C. C. 12th July 1839, ... III. 55

22. Sections 10 and 12, Regulation XXVI. 1814, though applicable to the courts of the principal sudder ameens, are not to those of the *sudder ameens* and moonsiffs. [*Circular Order, Sudder Dewanny Adawlut, 20th August* 1841, *modifies this construction and declares the sections cited applicable to the courts of the sudder ameens*] No. 1226, W. C. 21st June, C. C. 2d August 1839, ... III.

23. The processes of principal sudder ameens and sudder ameens, required to be enforced in another district, should be issued under their seal and signature as prescribed by Clause 4, Section 15, Regulation V. 1831, and, with reference to Clause 3, Section 2, Regulation II. 1806, be sent by the sudder ameens to the judge of the zillah or city court in which they are to be executed. No. 1235, W. C. 19th July, C. C. 9th August 1839, ... III. 59

24. If in an appeal from the decision of a moonsiff, the principal sudder ameen should be of opinion that the matter at issue was of such a nature as to render a reference to the collector under the provisions of Section 30, Regulation II. 1819, necessary, he should not remand the suit to the moonsiff but send the case to the judge, under the Circular Order, Sudder Dewanny Adawlut, dated 14th June 1839, recommending the annulment of the moonsiff's decision, and the return of the case to that officer on the ground that he ought to have rejected the suit in the first instance, as illegally instituted, and in order that he should now follow that course. No. 1261, C. C. 3d January 1840, W. C. 6th December 1839, III. 68

25. All cases under the provisions of Regulation VII. 1819, are referrible to the principal sudder ameens for investigation and report. No. 1265, W. C. 6th December 1839, Government 10th March 1840, ... III. 69

26. In a suit laid at a sum exceeding 5000 rupees, in which the principal sudder ameen gives a decree for a sum less than that amount, the appeal from the decision lies to the Sudder Dewanny Adawlut. No 1282, C C. 7th August, W. C. 26th August 1840,..... III. 76

27. The mode of proceeding laid down in Section 7, Regulation VII. 1832, is to be followed in the case of defendants ordered into confinement by the principal sudder ameens in suits exceeding 5000 rupees. No. 1284, C. C 7th August, W. C 7th September 1840, ... III. 76

28. The judge cannot depute to a principal sudder ameen the duty of making the enquiry contemplated by Section 1, Act IX. 1839, in the case of parties applying to sue *in formâ pauperis:* i. e. whether there is probable cause for instituting the suit. [*See C. O. 11th August* 1843.] No. 1285, W. C. 7th August, C C. 7th September, 1840, ... III. 76

29 Principal sudder ameens may, with the consent of the parties, refer suits to arbitration. No. 1292, C. C. 26th March, W. C. 10th April 1841,..... III. 78

30. The order of a zillah judge dissenting from a principal sudder ameen as to the propriety of a review of the latter's judgment on a reference made under Clause 2, Section 19, Regulation V. 1831, is final, and not open to revision on appeal to the Sudder Dewanny Adawlut. No. 1294, C. C. 14th May, W. C. 28th July 1841,..... III. 79

31. In a suit cognizable by a moonsiff referred to a principal sudder ameen under Section 5, Act XXIV. 1837, that officer is not bound by the rules respecting *ulubana* for service of process, and the receipt of

supplemental proceedings, applicable to the court of the moonsiff. No. 1362, W. C. 26th August, C. C. 9th September 1842,..... III. 98

PRINTING PRESSES.

1. It is imperative upon a magistrate under the provisions of Act XI. 1835, to sentence any person convicted of a breach of that law to imprisonment in addition to fine. If the fine be not paid, it is to be levied under Act II. 1839, and not commutable to a further period of imprisonment. No. 1325, C. C. 11th February, W. C. 11th March 1842,..... III. 86

PRIVITY TO BURGLARY.

See "Exemption from Labor," No. 4.

PROCESSES.

See "Collectors," Nos. 6, 7, 8, 26, 31.
"Moonsiffs III." *passim.*
"Principal Sudder Ameens," Nos. 5, 8, 23.
"Sudder Ameens," No. 24.

PROCLAMATIONS.

1. Magistrates warned not to issue proclamations of a general nature, No. 382, 22d April 1825,... I. 158

PROCLAIMED OFFENDERS.

1. The proclamation prescribed in Section 3, Regulation IX. 1808, can only be issued against persons charged with *dacoity*, or gang robbery, to which the provisions of the regulation are expressly directed. No. 117, 21st January 1813, ... I. 34

2. The provisions of Section 14, Regulation IX. 1808, [which declare the estate or farm of the offender liable to forfeiture to Government,] apply only to the case of harbouring or aiding *dacoits*, proclaimed in conformity with Section 3 of that Regulation. No. 118, 25th January 1813, ... I. 34

3. The proclamation prescribed by Section 3, Regulation IX. 1808, cannot be issued against persons inhabitants of a foreign territory. No. 127, 1st July 1813, ... I. 36

4. All proclaimed offenders must be tried under Regulation IX. 1808, as modified by Regulation V. 1822, i. e. they may, according as the superintendent of police may decide, be tried either for the contumacy, or for the offence for which they were proclaimed. If tried on the original charge, the court trying them may award the full sentence or that mitigated by Regulation XVI. 1825, as the case may be aggravated or unaggravated; referring the trial to the Nizamut Adawlut, where the full, or ordering execution of the sentence without reference, where the mitigated sentence may be passed. When the trial may be for the contumacy only, and the prisoners may be convicted on the charge, the judge trying them should still conform to the provisions of Section 8, Regulation IX. 1808, i. e. pass the full sentence of imprisonment in transportation for life, and refer the trial to the Nizamut Adawlut. No. 435, 3d November 1826, I. 182

PROVINCIAL COURTS.

N. B. The Provincial Courts were abolished by Regulation II. 1833.

1. A single judge is authorized by Clause 2, Section 2, Regulation XIII. 1810, to try and decide original suits as well as appeals: and Clause 4, Section 4, has reference to the possible completion of the trial before two or more judges after having been commenced by a single judge. No. 66, 16th August 1810, ... I. 15

2. Clause 4, Section 2, Regulation XIII. 1810, restricts a single judge from dismissing on default appeals from judgments and orders passed by himself, as well as from sitting on appeals from judgments passed by himself, even in company with other judges. No. 70, 29th November 1810, ... I. 16

3. A single judge under Clause 4, Section 4, Regulation XIII. 1810, is competent to exercise the power vested in the provincial court collectively by Section 18, Regulation V. 1793, as far as respects the admission of further evidence to be taken for the decision of the provincial court: but he cannot refer a suit back to a zillah or city court for further investigation or decision without the concurrence of one or more judges in conformity with Clause 3, Section 2 of the above Regulation. No. 74, 10th January 1811,..... I. 17

4. If a single judge record his opinion that the decision of the zillah or city court should be reversed or altered, another judge concurring, may pass a final order without waiting the actual presence of two judges at the same sitting. No. 83, 28th March 1811,..... I. 19

5. The provincial court may exercise their discretion in directing the appellant to be restored to possession after the respondent has been put in possession under the zillah decree. No. 90, 12th September 1811, ... I. 21

6. A single judge may exercise this power, since his ordering the appellant to be restored to possession would involve no difference of opinion with the zillah or city judge: unless the zillah or city judge had refused to stay execution of his decree, after an appeal had been preferred, on the ground of the security tendered being insufficient, in such case as the single judge could not order the appellant to be restored without admitting the validity of the security, his ordering that measure would involve a difference of opinion with the zillah or city judge, and would of consequence exceed his competency. No. 90, 12th September 1811, ... I. 21

7. Should it appear from the abstract statement of decided causes transmitted to the provincial court by a zillah judge that he has not adjudged on trial the prescribed number of causes, it is within their competency to require him to furnish an explanation of the same. No. 150, 7th April 1814, ... I. 47

8. A single judge of a provincial court may admit a special appeal. [*Superseded by Section 5, Regulation IX. 1819, which requires two judges of the provincial court to admit a special appeal.*] No. 262, 26th December 1816, ... I. 96

9. The order of a single judge making the heirs of a deceased respondent answerable for the costs of suit adjudged against the respondents, being final under Clause 2, Section 4, Regulation XIII. 1810, could not be reversed by two other judges except by a review, with the authority of the Sudder Dewanny Adawlut. No. 280, 28th August 1817,..... I. 102

10. Of three judges present, two differ, and the third was precluded from giving an opinion as the appeal was from a decision of his: as the senior judge has no casting vote, the case must be postponed till another judge join the court. No. 363, 9th April 1824,..... I. 151

11. The court to exercise their discretion in regard to the distribution of business. No. 510, 5th June 1829,..... I. 217

12. The Dacca provincial court informed that they were authorized to attach, through their own officers, land and other amenable property, situate within the city of Dacca, in execution of their own decree. No. 586, 8th April 1831, ... I. 245

13. A single judge is competent to direct a zillah or city judge to suspend execution of an order passed in such summary suits as are appealable and generally in all miscellaneous cases, until a decision shall have been passed on the appeal. No. 591, 15th April 1831,..... I. 247

14. A complaint against a pundit sudder ameen of a zillah court having been pending for some time in the provincial court, before the extension of Regulation V. 1831, to that zillah, it was held that the provincial court should dispose of it. No. 680, W. C. 7th March, C. C. 30th March 1832, ... II. 36

15. On the extension of Regulation V. 1831, to any district, the duty of submitting appeals to the Sudder Dewanny Adawlut, &c. &c. hitherto performed by the provincial court, must be performed by the zillah or city judge. No. 681, 9th March 1832, II. 37

16. The commissioner of the northern division of the Doab informed that though his powers as a court of original jurisdiction ceased under Section 3, Regulation II. 1833, he could exercise appellate jurisdiction until the Governor General in Council, under the authority vested in him by that Regulation, should abolish his appellate authority. No. 789, W. C. 10th May, C. C. 7th June 1833, ... II. 101

17. The provisions of Section 3, Regulation II. 1833, should have effect from the date of its promulgation, i. e. its receipt by the court. The transfer of original suits should not be delayed for the receipt of any further communication from the Judicial Department, and any decisions in such suits passed after that date are illegal. No. 791, C. C. 10th May, W. C. 14th June 1833,..... II. 103

18. Petitions of special appeal from decisions of zillah and city judges pending undecided before the provincial courts at the time of their abolition, must be heard and disposed of by the Sudder Dewanny Adawlut. No. 814, W. C. 23d August, C. C. 27th September 1833,..... II. 118

19. A single judge of the Sudder Dewanny Adawlut may reject a petition of special appeal transferred from an abolished provincial court, although a judge of the latter court have recorded an opinion for the admission of the appeal. No. 845, W. C. 29th November, C. C. 20th December 1833,... II. 142

20. In appeals received by the Sudder Dewanny Adawlut from the abolished provincial courts, the same stamps are to be used, as if the appeal had been instituted in the Sudder Dewanny Adawlut. The rule holds good in regard to original suits transferred from the provincial to the zillah and city courts, where the same stamp will be used as is used in the zillah or city court. No. 880, W. C. 14th April, C. C. 14th March 1834 and 2d May 1837,..... II. 168

PUBLIC HEALTH AND CONVENIENCE.

1. The term "householder" in Act X. 1842 is applicable to "house proprietors" and not to tenants. No. 1367, W. C. 22d December 1842, C. C. 20th January 1843, ... III. 99

2. When an application to be placed under the operation of this Act has been made, the operation of the Act is permanent, but a revision of the rates may be made by the committee annually. No. 1367, W. C. 22d December 1842, C. C. 20th January 1843,..... III. 99

3. No persons not "being inhabitants of the place" brought under the operation of the Act, can be appointed members of the committee. No. 1367, W. C. 22d December 1842, C. C. 20th January 1843,..... III. 99

4. The members of the committee are jointly and severally responsible for any misapplication, whether fraudulent or otherwise: but whether any act complained of was a "misapplication" or not will be determinable by a civil suit. No. 1367, W. C. 22d December 1842, C. C. 20th January 1843, III. 99

PUBLIC OFFICERS, COMPLAINTS AGAINST.

1. A commissioner appointed under Act XXVI. 1839, not having subscribed the oath required by Section 11 of the Act, *before an officer authorized to administer the same*, his proceedings are altogether illegal and invalid. No. 1289, W. C. 28th November, C. C. 10th December 1840, ... II. 77

PUBLIC PROSECUTOR.

1. There is no objection against the superintendent of police or any other officer whom the Governor General in Council may appoint, not being the committing officer, conducting a prosecution before the court of circuit, provided he be recognized as the prosecutor, or agent of Government, and be not authorized to interfere in any other capacity in the trial. No. 279, 9th July 1817, ... I. 101

2. In cases of commitments made by the superintendent as magistrate, he should not conduct the prosecution before the court of circuit: but his assistant or the assistant to the magistrate may be so employed. No. 279, 9th July 1817, ... I. 101

3. It is competent to the magistrate to direct any person whom he may think fit, to officiate as Government pleader to conduct a prosecution on the part of Government. No. 600, 23d September 1831,... I. 249

4. A magistrate may exercise his discretion in appointing the Government pleader to prosecute in cases of murder, notwithstanding there may be near relations of the deceased, competent to prosecute. No. 778, 6th April 1833, ... II. 92

PUNCHAYUT.

1. The decisions of *punchayuts* appointed under Regulation IX. 1833, should be enforced by the revenue authorities; the judicial functionaries having no power to carry them into effect. No. 895, W. C. 5th September, C. C. 26th September 1834, ... II. 179

See "Arbitration," No. 5.

PUTNEE TENURES.

1. The provisions of Section 8, Regulation VIII. 1819, expressly referring to "*zumeendars*, that is, proprietors under direct engagements with Government," they must be held to be restricted to those persons, and *lakherajedars* cannot avail themselves thereof. No. 313, 5th May 1820, ... I. 129

2. The sales of *putnee* tenures must be made by the register [*since the enactment of Section* 16, *Regulation VII.* 1832, *by the collector*] of the district in which the talooks are situated and no other. No. 326, 1st September 1820,..... I. 134

3. The day for the presentation of petitions on the part of zumeendars for the half yearly sale falling in the vacation, it must be deemed commutable to the next day after the re-opening of the court, and the sale must not take place until a month from and after such day. No. 329, 15th September 1820, ... I. 134

4. The sale of *putnee* and *durputnee* tenures in execution of decrees should be conducted by the collector. No. 349, 26th April 1822, ... I. 144

5. The register of the zillah court is not amenable to a civil action for acts performed in his official capacity in selling *putnee* tenures: but the person aggrieved may obtain redress by an action against the zumeendar, whose allegation of arrears caused the sale, or the purchaser, or both. No. 440, 8th December 1826, ... I. 185

6. A *zumeendar* is not entitled to transfer to an *ijarahdar* his right of obtaining periodical sales of *putnee* tenures for arrears of revenue under Regulation VIII. 1819, the individuals specified in Section 8, as entitled to apply for such sales being proprietors under direct engagements with Government. No. 461, 7th September 1827,..... I. 196

7. The commission of 1 per cent. leviable for the use of Government under Clause 2, Section 17, Regulation VIII. 1819, should be levied on the net proceeds of the sale whatever that may be; the several deposits of 15 per cent. where there be more than one sale [together with the difference between the first, second and third sales claimable from the first and second purchasers, if any sum on this account should have been realized] being reckoned as part of the gross proceeds. No. 491, 9th January 1829, ... I. 209

8. A farmer under the court of wards has no authority to bring to sale *putnee* talooks, for the reasons stated in Construction 461. No. 523, 4th September 1829, ... I. 222

9. A *sudder putneedar* cannot exercise the same authority as is possessed by the *zumeendar*, with respect to his under tenants, of selling the tenure of his *durputneedar*, without previous application to the court. No. 531, 27th November 1829, ... I. 225

10. If the auction purchaser do not pay the balance of the purchase money by noon of the eighth day, he forfeits by his failure the deposit of 15 per cent. put in by him on the day of sale, and all right to benefit by an increased price at a second sale, while he will be answerable for any deficiency. The forfeited percentage is to be considered as part of the proceeds available for the benefit of the defaulter. Should it be sufficient to cover the balance claimed by the *zumeendar*, no further sale need take place: otherwise, [if the balance be not previously paid by the defaulter,] the *talook* must be re-sold on the ninth day, and any surplus of the forfeited percentage, and of the proceeds of the second sale, after liquidating the *zumeendar's* demand, must be paid to the defaulting talookdar. No. 580, 24th December 1830, I. 243

11. A *putnee* sale should take place before the register of the zillah court in the limits of which the talook is situated, and not of that of the collector in which the estate, of which it forms a part, is subordinate. *(Superseded by Section* 16, *Regulation VII.* 1832.*)* No. 597, 29th July 1831,... I. 248

12. The sale of *putnee* and *durputnee* tenures must be held by the register, or, in his absence, by the judge and magistrate: but all summary investigations relating to the rent demanded by the zumeendar must be conducted by the collector under Regula-

tion VIII. 1831. [*By Section* 16, *Regulation VII.* 1832, *the duty of selling putnee tenures has been transferred to the collector.*] No. 614, 16th December 1831, ... I. 254

13. All talooks in which the interest of the occupant is saleable, may be sold for an arrear of rent accruing thereon: and the sale should be made by the register, or in his absence by the judge or magistrate [*now by the collector under Section* 16, *Regulation VII.* 1832] in the same manner as *putnee* and *durputnee* tenures under the provisions of Sections 9 and 16, Regulation VIII. 1819. No. 695, C. C. 25th May, W. C. 4th May 1832, ... II. 44

14. Petitions on the part of defaulting *putneedars*, whose tenures have been sold for arrears of rent, under Regulation VIII. 1819, previous to the enactment of Regulation VII. 1832, to receive the excess of the purchase money above the amount of the balance for which the tenure was sold, should be presented to the judge who holds the surplus in deposit. No. 795, C. C. 14th June, W. C. 19th July 1833, ... II. 105

15. *Putnee* and *durputnee* tenures must be sold in execution of decrees by the collector: and the report required by Section 2, Regulation XLV. 1793, made to the commissioner. No. 897, 5th September 1834, ... II. 182

16. *Putnee* talooks as such are sufficient security in cases appealed to the King in Council, if otherwise unexceptionable. No. 1004, 25th March 1836, ... II. 249

17. A *putneedar* having purchased in a fictitious name, the *talook* sold by auction for his default, cannot cancel the under tenures: and if he do so, the holder of such tenure has his remedy in an action for the recovery of possession against the fictitious purchaser, laying his suit at the value at which he estimates his interest in the property. No. 1243, C. C. 16th August 1839, Government 25th February 1840, ... III. 61

PUTTEEDARS.

See "Original Suits, VI." Nos. 6, 7, 9.

RAPE.

1. On a commitment for rape, a *razeenameh* is not admissible: if the woman on whom violence has been committed and her husband refuse to prosecute, the pleader of Government should be appointed to conduct the prosecution; the offence of rape being described in Clause 3, Section 6, Regulation XVII. 1817, as a heinous crime. No. 403, 24th August 1825, ... I. 168

2. There is nothing in the regulations which prohibits a magistrate from taking cognizance of cases of rape in which no complaint is preferred: but he should exercise this power with the utmost discretion and with due regard to the feelings of the injured party and her family. No. 670, 13th January 1832, ... II. 32

3. A magistrate may refer a case of rape to the darogha for investigation. No. 1174, C. C. 21st September, W. C. 31st August 1838, ... III. 29

4. A thanehdar may under Sections 12 and 13, Regulation XX. 1817, enter on an enquiry into a charge of rape preferred directly at the thaneh, no complaint having in the first instance been preferred to the magistrate. No. 1365, W. C. 19th November, C. C. 9th December 1842, ... III. 98

RAZEENAMEH IN CIVIL CASES.

1. Constructions Nos. 164, 181, 212, 242 and 260, relating to the fees receivable on cases disposed of by *razeenameh*, by the registers and sudder ameens and moonsiffs, are now obsolete.

No. 164, 2d June 1814, ... I. 50
No. 181, 17th August 1814, ... I. 56
No. 212, 15th July 1815, ... I. 68
No. 242, 24th February 1816, ... I. 81
No. 260, 26th December 1816, ... I. 90

2. Where the plaintiff's claim is not disputed by the defendant, it may generally be expected that the suit will be adjusted by *razeenameh*, in which case the provisions in force for the return of stamp duty in suits adjusted by *razeenameh* would be applicable; but the regulations do not authorize a return of the institution fee, or stamp duty substituted for it, in cases *decided* in favor of the plaintiff, on the acknowledgment of the defendant, without an investigation of the merits. No. 208, 1st June 1815, ... I. 67

3. In a similar case, if a *razeenameh* be filed, the vakeels would be entitled to ¼ or ½ the full fee, as the *razeenameh* may have been filed before or after the pleadings have been filed. If the suit be allowed to go to a judgment in favor of the plaintiff, the vakeels are entitled to a full fee. No. 209, 1st June 1815, ... I. 67

4. In cases adjusted by *razeenameh* after evidence has been taken, the vakeels are entitled to the full fee, as if no *razeenameh* had been filed. No. 418, 5th May 1826, ... I. 175

5. The refund of stamp duty is authorized only when a *razeenameh* has been regularly filed: not in a case of *dustburdaree*, in which the plaintiff voluntarily relinquishes his claim. No. 977, 28th August 1835, ... II. 227

RAZEENAMEH IN CRIMINAL CASES.

See "Rape," No. 1.
See "Compromise of Theft," *passim*.

RECEIPTS.

See "Pottahs," No. 2.
See "Stamps, II." Nos. 10, 11.

RECOGNIZANCE.

See "Moochulkas," *passim*.

RECORDS.

1. There being no specific provisions in the regulations for compelling native officers of Government in the judicial department to deliver over charge of the records of their office, such cases fall within the general provisions of Section 21, Regulation III. 1793. No. 176, 3d August 1814, ... I. 55

2. The revenue authorities are not entitled to demand that the records of suits shall be sent to them for inspection: but they may depute an officer to inspect such records with the permission of the court. No. 693, 18th May 1832, ... II. 43

3. Translations of Bengallee papers in the record of an appealed case, made at the special request of the appellant, should be made at his expense: in all other cases by mohurrirs of the court or hired mohurrirs at the cost of Government, only papers material to the issue should be translated. No. 699, 29th June 1832, ... II. 46

4. Copies need not be made of the record of appealed cases, nor the originals submitted to the Court of Sudder Dewanny Adawlut, until called for by a precept. No. 742, 14th December 1832, ... II. 70

5. Construction 896 points out the mode of procedure in the records of a moonsiff's court being destroyed by fire. No. 896, W. C. 5th September, C. C. 3d October 1834, ... II. 179

6. The zillah judge ought not in ordinary cases to furnish officers employed in the resumption department with the original records of his court: but may furnish them with copies of any papers they may require on their authorizing him to defray the expense of copying. Should the inspection of the original record, or any portion thereof be absolutely necessary, the judge, previously to forwarding the same, will retain an attested copy; the expense of making which must be defrayed by the revenue authorities. No. 1070, C. C. 27th January, W. C. 10th February 1837, ... II. 296

7. A moonsiff has the power of calling for the record of a case from any court, [such call being made through the judge of the district to which he is attached,] when any peculiar circumstances render it necessary for him to do so. But in general if any particular paper is required, the party who wishes to file it should obtain an attested copy, in the usual manner. No. 1259, C. C. 1st November, W. C. 6th December 1839, ... III. 68

REFERENCES OF CRIMINAL CASES TO LAW OFFICERS AND SUDDER AMEENS.

1. Suits instituted under Regulation XV. 1824, cannot be referred to sudder ameens though vested with special powers under Section 5, Regulation II. 1821. No. 415, 14th April 1826, ... I. 174

2. In cases referred for investigation and decision to sudder ameens by the magistrate, they have no authority to issue perwanehs to thanedars, daroghas, or other mofussil police officers: when necessity may exist, they will represent the matter to the magistrate who will issue the necessary orders. No. 451, 30th March 1827, ... I. 190

3. Such trivial criminal cases only should be referred to the law officers, as they are themselves competent to decide: cases of a graver nature should not be referred to such officers for investigation and report. No. 516, 24th July 1829, ... I. 219

4. A magistrate should not make over petitions, when first presented, to sudder ameens for report. No. 627, 28th February 1831, ... II. 6

5. The processes of sudder ameens in criminal cases referred to them, should be issued under their own signatures, but under the seal and through the officers of the magistrate. No. 741, C. C. 7th December 1832, W. C. 11th January 1833, ... II. 69

REFERENCE TO THE SUDDER DEWANNY ADAWLUT IN MISCELLANEOUS CASES.

1. A zillah judge was considered authorized under the Circular Order, Sudder Dewanny Adawlut, dated 18th April 1811, to state his objections to the provincial court, against the admission of a special appeal in English, as the subject was a "discussion regarding the relative power of European officers." No. 100, 23d April 1812, ... I. 26

2. A register is not authorized to call for an explanation of orders passed by the judge his official superior: but if the requisition of the judge to the register appear to the latter unauthorized by the regulations, he is at liberty to state his objections to the judge in a respectful manner, and in the English language, according to the spirit of Section 2, Regulation X. 1796, and Circular Order, Sudder Dewanny Adawlut, 18th April 1811. No. 273, 21st May 1817, ... I. 97

3. A judge and magistrate, deeming an order of the provincial court irregular as issuing to him, regarding civil matters, from the criminal department of that court, he should make his application to the Nizamut Adawlut through the provincial court under Regulation XXII. 1803, (Regulation X. 1796,) that the provincial court's reasons and explanation of their act may come before the Nizamut Adawlut at the same time with the objections. No. 323, 11th August 1820, ... I. 132

4. A magistrate is competent under Regulation X. 1796, (Regulation XXII. 1803,) to require a reference to the Nizamut Adawlut when he may deem an order passed by the circuit court [whether individually or collectively] to be repugnant to the regulations. No. 390, 10th June 1825, ... I. 161

5. The court of circuit are authorized to refer to the Nizamut Adawlut the magistrate's objections to their order, annulling his sentence on the ground that they did not deem the evidence sufficient for the conviction of the prisoners. No. 433, 23d October 1826, ... I. 182

6. The magistrate was informed that his withholding his proceedings until the circuit judge had thrice repeated his order, was irregular, and unwarranted by Regulation X. 1796, or any other Regulation. No. 437, 10th November 1826,..... I. 183

7. A zillah judge is not competent under the provisions of Section 2, Regulation X. 1796, to offer objections to an order of the provincial court in shape of a decree; the provisions cited being intended to apply to difference of opinion relative to the proper construction of regulations in miscellaneous matters, and not to the provisions of a decree; the remedy against which, if deemed erroneous by either of the parties interested, consists in appeal or review, to be applied for in the mode prescribed by the Regulations. No. 479, 18th April 1828, ... I. 203

8. It is not competent to a zillah judge to demand a reference to the Sudder Dewanny Adawlut, on the plea that the provincial court have admitted a special appeal from his decision on other grounds than those authorized by the regulations, as the reference of the judge, under such circumstances, would be placing himself in the light of an advocate of one of the parties. No. 536, 1st January 1830, I. 227

9. A magistrate having determined to refer a disputed point to the Nizamut Adawlut, should not have decided the case out of which the point arose, until again directed to do so by the commissioner to whose order he objected. No. 1030, C. C. 29th July, W. C. 2d September 1836, ... II. 270

REFERRED TRIALS.

See "Conduct of Trials," Nos. 3, 4, 5, 6, 8, 10, 13.

REFUSAL TO GRANT POTTAHS OR RECEIPTS.

1. There is no summary process, on the complaint of ryots, to compel landholders or farmers to grant pottahs or to give receipts; but on the ryots establishing the refusal in a regular suit, they would be entitled to receive them, as well as damages from the party refusing, under Sections 59 and 63, Regulation VIII. 1793. No. 67, 16th August 1810, ... I. 16

REGISTER OF DEEDS.

1. The judge cannot officiate for the register of deeds, during the absence of the register, without deputation from the register. [*Superseded by Section 4, Regulation IV. 1824.*] No. 5, 10th May 1804,..... I. 2

2. Copies of deeds brought for registry, as directed in Section 2, Regulation XX. 1812, being intended merely for record, should be admitted to be drawn out on plain paper. No. 119, 28th January 1813, I. 34

3. The judge cannot register any description of deeds required to be registered by the register. [See however Section 5, Regulation IV. 1824.] No. 135, 19th August 1813, ... I. 39

4. The office for the registry of deeds should be fixed at the sudder station of the district. [*By Act XXX. 1838, registry offices may be established at other than the sudder station.*] No. 135, 19th August 1813, ... I. 39

5. Section 15, of Regulation XXXVI. 1793, expressly authorize the register to appoint a deputy to act for him while absent. [*See also Regulation IV. 1824.*] No. 135, 19th August 1813,..... I. 39

6. The person executing the deed, or his *mokhtar*, must attend before the register to acknowledge the execution, and one or more witnesses to the execution must also attend to prove the execution by their testimony on oath. When the person executing the deed deputes a *mokhtar* with a *mokhtarnameh*, to acknowledge the execution of the deed, the execution of the *mokhtarnameh* must be proved by the examination of two witnesses on oath: neither the party executing the deed, nor his *mokhtar* need be examined on oath. No. 226, 3d November 1815,..... I. 74

7. The civil surgeon may be appointed to officiate as register of deeds. [*See Regulation IV. 1824.*] No. 288, 25th February 1818, ... I. 110

8. An officiating register of deeds may act in that capacity while acting as collector. No. 366, 25th June 1824, ... I. 152

9. When copies of deeds, not filed in any court of judicature, are required from the office of register of deeds, such copies must be written on a stamp of the same value as the original deed, or one of 8 rupees, according as the party taking the copy may or may not have a direct interest in the subject matter of the deed. No. 428, 4th August 1826, ... I. 180

10. When a deed has been once filed in court, it becomes a record, and a copy may be taken on the stamp prescribed for copies of records. No. 428, 4th August 1826,..... ..... I. 180

11. A register of deeds is not only competent but required to refuse to register a deed drawn up on an improper stamp. But if the value of the stamp equal or exceed the regular stamp in value, the register has no right to take exception to it, or to decline registering the deed so stamped. No. 438, 26th November 1826,..... I. 184

12. The registry of deeds is held to be a "civil proceeding" contemplated by Clause 2, Section 14, Regulation XVII. 1817; consequently in cases of perjury before a register of deeds, the judge and register should proceed according to the provisions of that clause. No. 611, 25th November 1831,... I. 253

13. A civil surgeon comes within the class of covenanted servants of the Company, who, by Sections 3 and 4, Regulation IV. 1824, may officiate as register of deeds. No. 611, 25th November 1831, .. I. 253

14. Powers of attorney produced by persons attending in behalf of others to procure the registry of deeds should be entered in a separate book, as directed by Section 7, Regulation XX. 1812. No. 732, C. C. 9th November, W. C. 7th December 1832, ... II. 64

15. A register of deeds, not being the register of the zillah or city court, is entitled, while officiating for the judge in the absence of the latter, to fees on the registry of all deeds executed by him. No. 743, C. C. 14th December 1832, W. C. 5th February 1833, ... II. 70

16. Mokhtarnamehs should not be registered: nor deeds whereby a person binds himself or others to serve as slaves for a certain period. No. 812, 16th August 1833, ... II. 116

17. Held that as Balasore is not the sudder station of a district, a registry office cannot, under the existing regulations, be established there. [*But by Act XXX. 1838, a registry office may be established at other than the sudder station.*] No. 905, 3d October 1834, ... II. 184

18. The registry of a deed in any other district than that in which the land is situated, must be considered as unofficial, and as not entitling the deed to the preference conferred on registered deeds by Section 16, Regulation XXXVI. 1793 and Regulation XVII. 1803. No. 1015, C. C. 17th June, W. C. 8th July 1836, ... II. 260

19. A *hibehnameh*, or deed of gift, cannot be registered after the death of the donor, and the register was quite right in refusing to register it. No. 1218, C. C. 21st June, W. C. 24th May 1839, ... III. 53

20. A register of deeds would not be justified in refusing to register any document presented to him, by reason of its being written in the Persian language. No. 1230, W. C. 5th July, C. C. 2d August 1839, ... III. 58

21. Security bonds for the eventual payment of costs of suit, may be registered under the provisions of Section 5, Regulation XX. 1812. No. 1270, C. C. 10th January, W. C. 28th February 1840, ... III. 70

22. The register refused to register a deed of sale presented by A, as executed by him in favor of B, on the plea that a deed of sale for the same land, purporting to have been executed by A in favor of C, had already been registered by a person acting under A's mokhtarnameh duly attested. Held that the register should register the deed brought to him for that purpose, leaving it to the courts to decide which deed was the true and valid document: but that the register however should satisfy himself as to the identity of the person registering in person, or ascertain the due attestation and validity of the mokhtarnameh, if by attorney. No. 1351, C. C. 22d July, W. C. 12th August 1842, ... III. 94

See also Acts Nos. I. and XIX. of 1843, *for further rules regarding the registration of certain deeds.*

REGISTER OF ZILLAH AND CITY COURTS.

1. The following Constructions concerning the powers, &c. of registers, having become obsolete by the abolition of that office, are not entered.

No. 36, 18th May 1808, ... I. 9
„ 191, 18th January 1815, ... I. 59
„ 194, 20th January 1815, ... I. 60
„ 211, 15th June 1815, ... I. 68
„ 216, 27th July 1815, ... I. 69
„ 223, 7th December 1815, ... I. 73
„ 251, 29th May 1816, ... I. 85
„ 273, 21st May 1817, ... I. 97
„ 285, 4th February 1818, ... I. 107
„ 355, 26th September 1823, ... I. 147
„ 356, 21st October 1823, ... I. 147
„ 440, 8th December 1826, ... I. 185

REGULATIONS, ERRORS IN.

1. Construction 22 points out an error in Section 49, Regulation VIII. 1793. No. 22, 6th August 1806, ... I. 6

2. Construction 557 points out an error in the Bengallee version of Article 7, Schedule A, and Article 10, Schedule B, Regulation X. 1829. No. 557, 28th May 1830, ... I. 234

3. Construction 585 points out an error in the Persian version of Clause 2, Section 16, Regulation XX. 1817. No. 585, 25th March 1831, ... I. 245

REGULATIONS, RECEIPT OF.

1. The date on which a regulation is received in an office should invariably be recorded thereon, the note being attested by the official signature of the judge. No. 566, 16th July 1830, ... I. 237

RELEASE OF CONVICTS.

1. A magistrate is not authorized under any circumstances to release a convict under sentence. No. 841, 11th October 1833, ... II. 135

2. A commissioner is not competent to authorize the release of a convict, either on security or otherwise, for the purpose of apprehending a proclaimed offender. No. 1013, W. C. 17th June, C. C. 1st July 1836, ... II. 259

3. Nor is the commissioner competent to release sick prisoners without the sanction of the Court. If he deem the removal for change of air necessary, he

may direct the magistrate to remove them to some other building, or to a neighbouring jail, reporting the same for the Court's orders. No. 1016, W. C. 17th June, C. C. 16th July 1836, ... II. 260

RENT-FREE LANDS.

1. A collector cannot decline to take up a suit referred to him under Section 30, Regulation II. 1819, on the ground of the plaintiff being a public officer on his establishment. No. 320, 28th July 1820, ... I. 132

2. With reference to the value of stampt paper on which appeals from decisions of collectors under Clause 7, Section 30, Regulation II. 1819, are to be written [viz. 1 rupee,] the appeal must be considered as summary in as far as relates to the pleader's fees: but with reference to Section 12, the trial and decision should be regulated by the mode of procedure observed in regular appeals. [See Constructions 768 and 987, Nos. 19 and 23.] No. 338, 18th May 1821, ... I. 138

3. There is no provision in Regulations III., IV. and XIX. 1793, which could, *primâ facie*, be construed as prohibiting a zumeendar from instituting one and the same suit for the recovery of the revenue of land exceeding 100 *beeghs*, held exempt from the payment of revenue, which may have been alienated by two or more grants prior to the 1st December 1790.* Such suit should be entertained, leaving its legality and the plaintiff's right to be determined upon investigation of the facts of the case. No. 346, 3d August 1821, ... I. 142

4. A regular appeal lies, as a matter of right, from the decision passed by a zillah judge in a suit, upon which the collector has reported, as under Section 30, Regulation II. 1819. No. 427, 28th July 1826, ... I. 179

No. 455, 20th July 1827, ... I. 192

5. Should it appear in appeal that the court of first instance has decided a suit which, under Section 30, Regulation II. 1819, should have been referred to the collector for report, without making such reference, the appellate court should send back the case to the lower court, with directions to take a report from the collector and decide *de novo*. No. 427, 28th July 1826, ... I. 179

6. The reference to the collector being for report and not for decision, the case should be left on the judge's file, and on its being returned by the collector, the judge should proceed to try and decide it, as if no reference has been made. No. 450, 30th March 1827, ... I. 189

7. Appeals from the decisions of collectors in cases instituted before those officers in the first instance, should be considered as regular appeals, and entered in the monthly and annual statements as "appeals under Regulation II. 1819." No. 450, 30th March 1827, ... I. 189

8. The provisions of Clause 5, Section 10, Regulation III. 1828, are applicable only to appeals from the decision of the Board of Revenue; or in other words, only to appeals from decisions which affect the rights of Government; and not to those of the revenue authorities which declare land hitherto held on a rent-free tenure liable to assessment. No. 492, 9th January 1829, ... I. 209

9. The fact of a case being referred to a sudder ameen after having been reported on by the collector, was held to be a sufficient ground for the admission of a special appeal, with a view to determine the legality of the proceedings. No. 499, 27th March 1829, ... I. 213

10. The judge of Purneah was informed that all suits pending under Regulation II. 1819, should be retained on his file, as that district has not been placed under the jurisdiction of a special commissioner under Regulation III. 1828. No. 508, 22d May 1829. ..... I. 216

11. All suits in which *lakhiraj* land is in dispute are properly cognizable by the collectors, not those only in which Government is a party. No. 527, 30th October 1829, ... I. 224

12. The special commissioner of the Patna division was informed that, by Clause 1, Section 2, Regulation III. 1828, suits for the resumption of rent-free lands, in districts to which a commissioner had been appointed under that regulation, can only be finally determined by the commissioner: that by Clause 4 of the same Section, all pending suits are to be transferred to the commissioner, and no appeal shall lie to any established court of judicature from any decision which has been or may be passed by a Board of Revenue, or collector, previously to, or pending the appointment of a commissioner:—and that the Court of Sudder Dewanny Adawlut were precluded from admitting an appeal from a decree of the late third judge of the Patna provincial court in appeal from a decision of the Board of Revenue and collector; but that by Clause 6, Section 4 of the Regulation cited, the commissioner was authorized to admit the appeal; otherwise the party would be deprived of the right of appeal, which was open to him prior to the passing of the Regulation. No. 534, 1st January 1830, ... I. 226

13. In suits in which Government would not be entitled to any revenue from the land, if resumed, the petition of the plaint should be written on stampt paper of the value prescribed for rent-free lands, whether the claim be by an individual against a *zumeendar* to hold land on a rent-free tenure, or by a *zumeendar* to resume land held on an illegal rent-free tenure. No. 576, 1st October 1830, .. I. 241

14. When a *zumeendar* sues to resume lands held on a rent-free tenure, the only question for the court to determine is the validity or otherwise of the alleged rent-free tenure, and not the amount assessable thereon. The decree, if in favor of the plaintiff,

should merely declare the land liable to assessment. No. 576, 1st October 1830, ... I. 241

15. When suits which involve the validity of titles to hold lands exempt from the payment of revenue have been tried by courts inferior to the zillah judge's court, without a previous reference to the collector, the decisions should be quashed and the suits placed on the judge's file and the prescribed reference made to the collector. No. 584, 25th February 1831, ... I. 245

16. As a sudder ameen cannot refer a suit to the collector for report, the judge cannot refer to the sudder ameen such suit when reported on, but must try it himself. No. 589, 8th April 1831, ... I. 246

17. The collector cannot delegate to his assistant the judicial duties delegated to him by the judge under Section 30, Regulation II. 1819. No. 603, 21st October 1831, ... I. 250

18. Suits in which rent-free lands are the subject of dispute, but in which the validity of the tenure is not disputed, should not be referred to the collector for report. No. 669, 13th January 1832, ... II. 32

19. In an appeal to set aside the decision of a collector under Section 27, Regulation II. 1819, the pleadings and other papers are liable to the stamp duties prescribed by Schedule B, Regulation X. 1829. No. 768, W. C. 15th March, C. C. 29th March 1833, ... II. 87

20. Suits for the property or possession of rent-free lands are not cognizable by moonsiffs, even though the point of the land being rent-free or exempt from the payment of revenue be not disputed by the parties. [*Superseded by Section* 8, *Act VI.* 1843.] No. 825, C. C. 6th September, W. C. 4th October 1833, ... II. 125

21. In suits for rent-free land, in which the right of ownership only is the point at issue, [as for instance, when the heirs of a holder of rent-free lands sue their co-parceners for their respective shares,] the case appertains solely to the civil court; but if the nature as well as the proprietory right be disputed, [as where the zumeendar sues for possession of land as attached to his estate and the defendant pleads that he holds possession thereof as rent-free, and *vice versâ*,] the suit must be referred to the collector for report. No. 981, C. C. 16th September, W. C. 11th March 1836, ... II. 230

22. If the collector return a suit with his opinion, that it is not one on which he is bound to report, the judge, in the event of his maintaining a different opinion, should repeat the order, with the usual precept, requiring a return to be made within a prescribed period. Should the collector still refuse, the judge should report the matter for the Court's information, in order that such other measures should be adopted as might appear just and proper. No. 981, C. C. 16th September 1835, W. C. 11th March 1836, ... II. 230

23. Clause 7, Section 30, Regulation II. 1819, which allowed the petition of appeal from collectors' decisions to be written on a stamp of 1 rupee, is rescinded by Section 2, Regulation X. 1829: and the petition of appeal, the pleadings and exhibits must be written on stamps, as in other appeals. No. 987, C. C. 4th September, W. C. 25th September, Government 17th November 1835, ... II. 235

24. A suit brought by a zumeendar for the rent of land in which the defendant claims a right of property in virtue of a rent-free grant, is not referrible to the collector under Section 30, Regulation II. 1819; but must be considered as a boundary dispute, and disposed of in the ordinary manner by the civil court. No. 1067, C. C. 30th December 1836, W. C. 13th January 1837, ... II. 294

25. The rule contained in Clause 3, Section 16, Regulation V. 1831, applies only to appeals from the decisions of the native judges: consequently appeals from the decisions of collectors under Clause 7, Section 30, Regulation II. of 1819, cannot be confirmed summarily; the respondent must be duly summoned and security for costs tendered. No. 1076, C. C. 24th February, W. C. 10th February 1837. ... II. 299

26. When lands are attached by Government pending an enquiry as to the validity of the alleged rent-free tenure, if the lands be finally adjudged liable to assessment, Government are entitled to mesne profits during attachment. If on the other hand, the lands be declared to be exempt from public assessment, the proprietors have a just claim against Government for the mesne profits which accrued while the lands were under charge of the revenue authorities. No. 1079, C. C. 10th March 1837, II. 301

27. Should it be found that the collector, in a suit for rent-free land, has omitted to do any act which he is required to do by law, and has either forwarded his report according to Clause 6, Section 30, Regulation II. 1819, or has passed a decision under Clause 7, as the case may be, without such defect being remedied, thereby precluding the judge, who may decide, or hear in appeal, the case from proceeding with or adjudicating it in a legal manner; the latter officer would be authorized, and it would be his duty to return the proceedings, pointing out to the revenue officer his want of conformity to the law applicable to the case, and desiring him to rectify the error or supply the omission: and on his refusal the judge should bring his conduct to the notice of Government. No. 1245, C. C. 23d August, W. C. 13th September 1839, ... III. 63

28. Should a principal sudder ameen, in trying an appeal from the decision of a moonsiff, find that the matter at issue is of such a nature as to render a reference to the collector, under Section 30, Regulation II. 1819, necessary, he should send the case to the judge under the Circular Order, Sudder Dewanny Adawlut, 14th June 1839, recommending the annulment of the moonsiff's decision, and the return of the case to that officer, on the ground that he ought to have rejected the suit in the first instance, as illegally

instituted, and in order that he should now follow that course. No. 1261, C. C. 3d January 1840, W. C. 6th December 1839, ... III 68

RENT, SUITS FOR, ON ¼ STAMP.

1. Suits for arrears or exaction of rent on ¼ stamp, are cognizable as summary suits by the collector, and as regular suits by the moonsiffs; and the rule is applicable to ryots and under tenants resisting undue demands, and zumeendars and others claiming their just dues. No. 714, C. C. 31st August, W. C. 5th October 1832, ... II. 55

2. The civil courts are competent to receive suits for rent on ¼ stamp: it is not necessary that they should first be instituted before the collector as summary suits, and by him transferred to the civil court. No. 867, C. C. 14th February, W. C. 26th March 1834, ... II. 157

3. In suits for rent on ¼ stamp, the vakeel's full fee must be deposited *(but see Regulation XII. 1833)*; the pleadings must be filed; and all the forms enjoined for the conduct of regular suits must be observed. No. 930, C. C. 23d January, W. C. 27th February 1835, ... II. 200

4. Suits transferred by the collector to the civil courts must be entered and tried as regular civil suits. No. 951, W. C. 8th May, C. C. 22nd May 1835, ... II. 211

5. Summary suits made over by the collector to the civil court under Regulation VIII. 1831, in consequence of regular suits having been previously instituted relative to the same matter, must be numbered separately, and each decided as a distinct suit, though both decisions may be simultaneous. No. 1001, C. C. 12th February, W. C. 4th March 1836, ... II. 247

6. The term "regarding the same matter" in Section 14, Regulation VIII. 1831, is to be considered as meaning that the cause of action in both suits is identical. No 1001, C. C. 12th February, W. C. 4th March 1836,..... II. 247

7. Suits instituted under Section 8, Regulation VIII. 1831, are to be considered in all respects as regular civil suits: consequently the pleadings and all other papers should be written on stampt or plain paper, according to the circumstances of the case, in the same manner as if the suit had been instituted on full stamp. No. 1001, C. C. 12th February, W. C. 4th March 1836, ... II. 247

RENT, SUMMARY SUITS AND PROCESS FOR.

1. Suits brought under Regulations XVII. 1793, XLV. 1795, VII. 1799, V. 1800, and XXVIII. 1803, should be considered as summary; but the defendant should be heard in his defence, and any evidence offered by him to refute the charge of resistance to attachment should be taken. No. 23, 9th August 1806, ... I. 7
No. 503, 1829,..... ..... I. 215

2. Though the process of distraint was primarily intended to enable landholders and farmers to realize their rents for the current year with punctuality, the regulations do not restrict the process from being employed for arrears of a former year, provided the person upon whom the distress is levied continue to be an under tenant of the distrainer. No. 27, 1st February 1807,... .... I. 7

3. The notice directed by Section 2, Regulation II. 1806, is not applicable to cases of summary suit provided by Section 15, Regulation VII. 1799. No. 30, 18th July 1807, ... I. 8

4. The regulations cited in Construction 23, regarding the powers of landholders to proceed against their tenants for arrears of rent being general, must be understood to apply to all claims for arrears of rent, whether due from lands paying revenue to Government or from lands exempt from public revenue. No. 33, 21st January 1808,..... I. 8
No. 61, 19th July 1810, ... I. 14
No. 313, 5th May 1820, ... I. 129
No. 337, 23d February 1821, ... I. 138

5. The regulations above cited are equally applicable to persons in possession of estates under deeds of mortgage, as to regular proprietors and farmers. No. 35, 26th May 1808, ... I. 9

6. The provisions of Section 15, Regulation VII. 1799, are equally applicable to defaulting tenants and their *malzamins;* but not to *hazirzamins*, unless the defaulters, for whose appearance they are responsible, abscond: in which case the *hazirzamin* as well as the *malzamin* is answerable for what may be due from the defaulter, and may be proceeded against accordingly. No. 41, 13th September 1808, ... I. 10

7. A defaulting farmer is liable to be ousted from his farm, at the end of the year for which an arrear of rent may be due from him, if he do not discharge the same on demand. No. 42, 17th September 1808, ... I. 10

8. A proprietor of land is authorized to oust his defaulting tenant without application to a court of justice, as declared in Clause 11, Section 15, Regulation VII. 1799, provided no violence be used so as to bring the case within the provisions of Regulation XLIX. 1793. No. 42, 17th September 1808, I. 10

9. The regulations do not authorize any summary process in cases of complaints by ryots and other under tenants against landholders or farmers for refusing to grant *pottahs* or receipts. But on the ryots establishing their claim to receipts or *pottahs* by regular suit, they would be entitled to receive them as well as damages. No. 67, 16th August 1810,... I. 16

10. The summary enquiry provided by Section 15, Regulation VII. 1799, was not intended to be made *exparte*, but on the arrest of the defaulter or his surety. [*Superseded by Clause 3, Section 18,*

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Regulation VIII. 1819, *which authorizes an exparte investigation.*] No. 96, 16th January 1812, ... I. 24

11. Plaintiffs in summary suits may prefer their claims in person or by vakeel, and are not required to prefer them on oath or solemn declaration. No. 110, 3d September 1812, ... I. 29

12. If on the *zumeendar's* alleging his tenant to be in arrear, the tenant deny the fact, the courts of justice are not authorized to cause the tenants to be removed and the tenure given up to the *zumeendar*, without any previous investigation of the latter's claim. The landholder must have recourse to his legal remedies of distraint, summary suit, or regular action. The 7th Clause of Section 15, Regulation VII. 1799, is merely declaratory of the right possessed by landholders, in common with all other claimants, to pursue their just demand by peaceable means; and intended not to convey to landholders any powers in addition to those which they previously possessed upon general principles and the usage of the country, but to give confidence to the landholders in the lawful pursuit of their just claims, and to discourage undue opposition on the part of the tenants—by satisfying the former, that they would be in no danger of being treated as wrong doers, in consequence of the just and peaceable exercise of their powers; and making the latter sensible that, in resisting rightful claims, until prosecuted in a court of justice, they would render themselves liable to costs and damages. No. 113, 12th November 1812, ... I. 30

13. When a summary judgment for rent is not satisfied by the defaulter or his surety, it may be enforced, at the expiration of the Bengallee, Fuslee, or Willaitee year for which the arrears have been adjudged to be due, by the sale of the defendant's *talook* or other transferable tenure, for the rent of which such judgment may have been passed. But the tenure cannot be sold on the mere allegation of a balance being due, without any enquiry. No. 128, 8th July 1813, ... I. 36

14. On the defaulter's tendering the amount decreed against him by a summary judgment, his tenure cannot be sold. The Court declined saying whether the *zumeendar* would be entitled to sell, in the event of his proving, by a regular suit, that the *talookdar* was in arrears at the end of the year. No. 130, 15th July 1813, ... I. 37

15. The provincial court may admit a special appeal in cases in which no regular appeal lies: therefore, they may admit an appeal from the judge's decision under Regulation VII. 1799. [*Obsolete*, but see Constructions 254 and 323.] No. 130, 15th July 1813, ... I. 37

15. A summary judgment for rent cannot be passed without the arrest of the under tenant or his surety; but a reasonable time should be allowed to the plaintiff to point them out. [*Superseded by Section* 18, *Regulation VIII.* 1819, *which authorizes an exparte enquiry, if the defendant be not forthcoming.*] No. 220, 31st August 1815, ... I. 71

17. There is no provision in the regulations for the arrest of the defaulter or his surety in any other jurisdiction than that in which the land is situated. [*This is provided for by Section* 9, *Regulation VIII.* 1819.] No. 220, 31st August 1815, ... I. 71

18. It is necessary for zumeendars and farmers prosecuting for enhanced rent, or defending suits instituted against them under Section 15, Regulation V. 1812, to shew that the amount demanded by them in the notification served on their tenants is conformable to the *pergunnah* rates, and the actual extent of the land. No. 234, 3d February 1816, ... I. 77

19. Summary suits for rent are not cognizable by sudder ameens or moonsiffs. No. 250, 22d May 1816, ... I. 85

No. 322, 4th August 1820, ... I. 132

No. 332, 22d December 1820, ... I. 135

20. If the summary judgment of the judge be within his competency, no appeal, regular or special, lies to the provincial court on the merits. But if it appear on the face of the summary judgment that the judge has exceeded his competency, the provincial court may admit an appeal to correct the irregularity without the expense and delay of a regular suit. [*Obsolete.*] No. 254, 31st July 1816, ... I. 88

No. 323, 11th August 1820, ... I. 132

21. The provisions of Section 15, Regulation V. 1812, by which a ryot may give security and release his attached crop from distraint by instituting a suit to contest the demand, applies also to cases in which a ryot may wish to give security to bring a suit, to contest the zumeendar's claim to enhanced rent under Sections 9 and 10 of the Regulation, and to attach his *jote* and oust him at the end of the year. No. 255, 21st August 1816, ... I. 88

22. A zillah judge is competent to depute an ameen to make local enquiries, when in a summary suit such a step may appear necessary. [*See Regulation VIII.* 1831.] No. 265, 19th February 1817, ... I. 92

23. A judge, on sufficient cause being shewn, is competent to re-admit a summary suit, which he may have dismissed in default of the plaintiff's attendance, without having called on him to shew cause for not having attended and proceeded in the suit. [*See Regulation VIII.* 1831.] No. 266, 19th February 1817, ... I. 93

24. The term "farmer of land," in Clause 4, Section 15, Regulation VII. 1799, is used in a general sense, and therefore includes under-farmers between the *sudder* farmer and the *ryot*, who may therefore avail themselves of the summary process prescribed by that Section. No. 278, 9th July 1817, ... I. 100

25. A register vested with full powers under Section 12, Regulation XXIV 1814, and residing at other than the sudder station of the district, may

admit defaulters and their sureties to bail, pending a summary suit for arrears of rent. [*Obsolete.*] No. 285. 4th February 1818, ... I. 107

26. In summary suits, in cases of illegal distraint, there should be adjuged to the injured tenant restitution of the value lost by him by the illegal distraint, and as much again as damages. Section 17, Regulation V. 1812, which allows the tenant his remedy by a summary suit, which before was confined to a regular suit, does not alter the quantum of remedy to be afforded to him. No. 327, 1st September 1820, I. 134

27. Individuals other than the alleged defaulter and his surety, who may lay claim to distrained property, are not entitled to the release thereof on furnishing security: nor can their claims be investigated under the provisions of Section 15, Regulation V. 1812; but such claims must be investigated as regular suits under Section 9, Regulation VII. 1799, No. 848, 19th April 1822, ... I. 144

28. The omission on the part of the alleged defaulter or his surety to give security, in consequence of which his property is sold, does not deprive him of his summary action. No. 348, 19th April 1822,... I. 144

29. The existence of a *kuboolyut*, or written engagement on the part of the ryot, is not essentially necessary to enable the landholder to institute a summary action against him; but the courts may decree such arrears as may be proved to be *bonâ fide* and actually due by an examination of the vouchers and accounts of the parties. [*See also Construction* 574.] No. 380, 15th April 1825, ... I. 157

30. The omission on the part of the alleged defaulter and his surety, after having given security, to institute a suit within the prescribed period, though it subjects the property to re-attachment and sale, does not deprive them of the benefit of a summary action for the recovery of damages on account of injury sustained by the illicit sale of the property. No. 421, 2d June 1826, ... I. 177

31. A suit by a ryot, farmer, or dependent talookdar, under the provisions of Section 17, Regulation V. 1812, should be instituted within one year from the date of the injury sustained by the illegal sale. No. 467, 25th January 1828, ... I. 198

32. The summary process authorized by Regulation VII. 1799, may be resorted to, however small may be the arrear claimed. No. 519, 21st August 1829, ... I. 221

33. To authorize the distraint of the ryot's property for arrears, it is not absolutely necessary that the zumindar should produce a *kuboolyut* executed by the ryot. No. 574, 17th September 1830, I. 240

34. The provincial court are competent to reverse an order passed by a judge in a summary suit instituted under Regulation V. 1812, with a view to direct the judge to conform to the provisions thereof. [*Obsolete.*] No. 581, 31st December 1830, ... I. 244

35. The summary decrees of collectors under Regulation VIII. 1831, are to be executed by themselves and not by the judges. No. 677, 24th February 1832, ... II. 34

36. Suits connected with arrears or exactions of rent, whether instituted by ryots, or under-tenants resisting undue demands, or by zumeendars and others claiming their just dues, may be tried either as summary suits by the collector, or as regular suits by the moonsiffs on stampt paper of ¼ value. No. 714, C. C. 31st August, W. C. 5th October 1832,... II. 55

37. The moonsiff or other competent officer called upon to sell distrained property is entitled to be reimbursed his expenses actually and necessarily incurred, though no sale take place; and if such expenses be not paid, he is authorized to realize the same by such part of the attached property as may be necessary for the purpose. [*But see Act I. of* 1839, *and Construction* 1255, *infra.*] No. 714, C. C. 31st August, W. C. 5th October 1832, ... II. 55

38. The judge cannot stay execution of the summary award of the collector, pending a civil suit to set aside that award. No. 738, W. C. 16th November, C. C. 7th December 1832, ... II. 67

No. 1165, C. C. 17th August, W. C. 20th July 1838, ... III. 23

39. Summary suits for the rent of lakheraje lands are cognizable by the collector under Regulation VIII. 1831. No. 837, W. C. 11th October, C. C. 8th November 1833, ... II. 131

40. A summary suit will not lie against all the defaulters of a village collectively, they not being connected with each other otherwise than by dwelling in the same village. No. 860, W. C. 7th February, C. C. 28th February 1834, ... II. 154

41. The collector cannot refer summary suits to the moonsiffs to be tried as regular suits. No. 879, C. C. 11th April, W. C. 2nd May 1834, ... II. 168

42. Summary suits by malgoozars against putwarees and other native agents employed by them in the management of their estates, under Section 37, Regulation XXVIII. 1803, (Section 20, Regulation VII. 1799,) are now cognizable by the collector. No. 946, W. C. 24th April, C. C. 22nd May 1835, ... II. 208

43. Summary suits transferred by the collector to the civil court under Section 15, Regulation VIII. 1831, are to be entered and tried as regular suits. No. 951, W. C. 8th May, C. C. 22nd May 1835, II. 211

44. The period of one year allowed for bringing a suit to set aside the summary award of a collector, must be calculated according to the principle laid down in Clauses 10 and 11, Section 8, Regulation XXVI. 1814. No. 1028, C. C. 29th July, W. C. 19th August 1836, ... II. 268

45. The civil court may stay the sale of property about to be sold in execution of the collector's summary award, on the motion of a *third* party, who, claiming it, has instituted a regular suit to establish his claim. No. 1181, C. and W. C. 26th October, 1838,..... III. 32

46. The power to receive security in cases of distraint for arrears of rent, which was conferred on the moonsiffs under Section 16, Regulation V. 1812, in virtue of their office as commissioners for the sale of distrained property, necessarily ceases with the withdrawal of the commission under the operation of Act I. 1839. No. 1255, C. C. 18th October, W. C. 22d November 1839, ... III. 66

47. The following constructions relate to the reference of summary suits to collectors, and have become obsolete since the enactment of Regulation VIII. 1831, which gives the collector original jurisdiction in such matters.

No. 108, 23d July 1812, ... I. 29
No. 112, 23d October 1812, ... I. 30
No. 116, 24th December 1812, ... I 34
No. 126, 29th April 1813, ... I. 36
No. 165, 9th June 1814, ... I. 51
No. 166, 9th June 1814 ..... I. 51
No. 203, 18th May 1815, ... I. 64
No. 268. 5th March 1817, ... I. 94
No. 425, 14th July 1826, ... I. 178
No. 599, 12th August 1831, ... I. 249

REPAIR OF ROADS.

1. A magistrate cannot compel a landholder to repair the public roads passing through his estate. No. 1072, W. C. 3d February, C. C. 3d March 1837, ... II. 297

REQUESTS, COURT OF.

See "Calcutta," No. 3.

RESCUE.

See "Arrest," No. 1.

RESISTANCE OF PROCESS.

1. Registers are competent to proceed against persons charged with resistance of process issued by them in suits referred to them, subject to an appeal to the judge: and as the judge may recall suits from the register, he may recall that which includes the resistance. [*Obsolete.*] No. 251, 29th May 1816, ... I. 85

2. A collector is competent to try all cases of resistance of his process of attachment connected with summary suits for rent, except where actual breaches of the peace occur, in which event the case must be tried by the magistrate. No. 615, 23d December 1831, ... I. 254

3. In cases of resistance of a moonsiff's process, he should report the case for the orders of the judge, as required in the instances provided for in Sections 23, 31, and 42, Regulation XXIII. 1814. [*See note on No.* 8.] No. 701, C. C. 6th July, W. C., 7th August and 26th October 1832, ... II. 46

4. A judge should himself dispose of all common cases of resistance of civil process under Section 25, Regulation IV. 1793, and make over to the magistrate those cases only which may have been attended with acts of violence amounting to a breach of the peace. No. 1033, C. and W. C. 12th August 1836, ... II. 272

No. 1115, W. C. 24th November, C. C. 8th December 1837, ... II. 329

5. An assistant in charge of the judge's office may summon parties charged with resistance of civil process, and examine the witnesses for and against the prosecution, and, if he consider the charge proved, hold the offenders to bail until the arrival of the judge, who, under the provisions of Section 3, Regulation IX. 1799, will pass the final order. No. 1080, C. C. 16th March, W. C. 31st March 1837, ... II. 302

6. When the judge of one zillah is called upon to aid the process of another zillah, he should back the same with his official signature, and send one or more peons of his own court to aid in the execution. Should that process be resisted, it will be considered as a resistance of the process of the court within whose jurisdiction it took place, and be cognizable as such by the judge of that court. No. 1115, W. C. 24th November, C. C. 8th December 1837, ... II. 329

7. A person against whom a summons has been issued to defend himself against a charge of resistance of process, is at liberty to answer the charge through a vakeel without attending in person. No. 1216, W. C. 17th May, C. C. 7th June 1839, ... III. 53

8. A moonsiff is competent to ascertain the fact of resistance of a process of his court, or other contempt, and to determine the amount of fine which ought to be levied on the offender: but before proceeding to levy the fine, he should report the case for the orders of the judge. [*Moonsiffs are empowered by Section* 4, *Act VI.* 1843, *to levy fines without reference to the judge.*] No. 1262, W. C. 16th November 1839, C. C. 3d January 1840, ... III. 69

See "Forfeiture of Land," Nos. 7, 8, 9.

RE-TRIAL, SUITS SENT BACK FOR.

1. Should it appear in appeal that the court of first instance has decided a suit which, under Section 30, Regulation II. 1819, should have been referred to the collector for report, without making such reference, the appellate court should send back the case to the lower court with directions to take a report from the collector and decide *de novo*. No. 427, 28th July 1826, ... I. 179

2. An original suit decided by the provincial court, being in appeal sent back for re-trial, after the promulgation of Regulation II. 1833, the provincial court were directed to transfer it as an original undecided suit to the zillah judge. No. 793, C. C. 31st May, W. C. 28th June 1833, ... II. 103

3. The vakeels in a suit which in appeal was sent back for re-trial, having received the full fee, the Court directed that the parties should be required to deposit another full fee—the court finally deciding the case determining to which party the fees already paid should be charged [*Superseded by Construction* 1105, *No.* 8.] No. 840, 11th October 1833, II. 134

4. The rules contained in Section 18, Regulation IV. 1803, (Section 18, Regulation IV. 1793,) must be considered applicable to the judges of districts under Regulation V. 1831, consequently they may send back cases for re-trial to the native judges. No. 870, W. C. 21st February, C. C. 27th March 1834, ... II. 159

5. A principal sudder ameen is competent to send a case to a moonsiff for further investigation; but cannot direct him to retry it: should he deem a new trial necessary, he must report his opinion on this point to the judge. No. 1023, C. C., 8th July, W. C. 5th August 1836, ... II. 264

6. A principal sudder ameen trying a suit sent back by the Sudder Dewanny Adawlut for re-trial is competent to adjudge the costs of all the courts in such manner as may appear just, his order being of course open to appeal. No. 1037, C. C. 12th August, W. C. 2d September 1836, ... II. 275

7. When a suit is sent back for re-trial, unless the order specially restricts the enquiry to any particular point or points, the whole case must be considered as re-opened. No. 1073, C. C. 10th February, W. C. 24th February 1837, ... II. 297

8. On a suit being sent back for re-trial, the vakeels who had taken out of court, on the decision of the case, the fees deposited by the parties, should be ordered to refund the same; leaving the court which may decide the case to award to the vakeels such portion of the fee as may appear an adequate remuneration for the trouble which they had taken in the matter. No. 1105, W. C. 8th September, C. C. 29th September 1837, ... II. 320

REVIEW OF JUDGMENT.

1. It has been held that the spirit of Clause 2, Section 4, Regulation XXVI. 1814, is applicable to miscellaneous cases and summary suits as well as to regular suits. No. 216, 27th July 1815, ... I. 69

No. 1249, C. C. 13th September, W. C. 4th October 1839, ... III. 64

2. The decision of the register of a zillah or city court is not open to review. No. 216, 27th July 1815, ... I. 69

No. 810, C. C. 2nd August, W. C. 20th September 1833, ... II. 115

3. The provincial court were allowed to review two decisions passed by them in appeal from the summary decision of a zillah judge under Regulations VII. 1799 and XLIX. 1793. No. 265, 19th February 1817, ... I. 92

No. 266, 19th February 1817, ... I. 93

4. The 3d judge of the provincial court having made the sons of one respondent answerable for the costs of suit in a case decided by two former judges, his order was considered of equal validity as if it had been passed by two or more judges, and not alterable without the permission of the Sudder Dewanny Adawlut to review. No. 280, 28th August 1817, ... I. 102

5. Although a petition of review may be received on the full stamp after the expiration of three months from the date of the decree, it is not incumbent on the court to receive it, unless the applicant shew just and reasonable ground for not having preferred it within the prescribed period. No. 490, 15th December 1828, ... I. 208

6. If the zillah judge dismissed the suit of the plaintiff on the strength of a decree of the provincial court, and the latter decree should afterwards be reversed by the Sudder Dewanny Adawlut, this would be a good ground for the zillah judge to apply for permission to review his judgment, and the Sudder Dewanny Adawlut would grant it. Had the plaintiff's claim been dismissed by a sudder ameen on the strength of a decree of the zillah judge, subsequently reversed by the provincial court, the plaintiff might apply for a summary appeal under Section 3, Regulation XXVI. 1814, as from a dismissal without an investigation of the merits of the case; or had he preferred a regular appeal, the fact stated would have been sufficient to authorize the admission of it, notwithstanding the expiration of the period allowed by the regulations. No. 651, 7th May 1830, ... I. 233

7. The decision of a single judge of the Sudder Dewanny Adawlut on review of a judgment passed by himself and another judge, the review having been admitted by both deciding judges, one of whom left the court before the re-hearing of the review, is final and conclusive, in the event of his confirming the former judgment. No. 683, 16th March 1832, ... II. 89

8. On an application being presented for a review of judgment in a case decided by two judges of the Sudder Dewanny Adawlut both of whom continue attached to the court, it is to be laid before the judges who passed the decree. In the event of a difference of opinion between them, as to the admission or rejection of the review, the matter to be referred for the opinion of a third judge till the question be decided by a majority of voices. No. 756, C. C. 8th February, W. C. 15th March 1833, II. 81

9. Petitions for review of orders of the Sudder Dewanny Adawlut rejecting applications for a review of judgment, provided they are presented within three calendar months from the delivery or tender of the decree appealed against, may be written on stampt paper of the value of two rupees; but if preferred after the expiration of that period, all such petitions must be written on the stampt paper prescribed in Article 8, Schedule B, Regulation X. 1829, with reference to

the amount or value of the property adjudged against the party desiring the review; in like manner as if a regular appeal were preferred from such judgment, as required by Clause 1, Section 2, Regulation II. 1825. No. 842, C. C. 1st November, W. C. 29th November 1833, ... II. 137

10. When in a case decided by a single judge of the Sudder Dewanny Adawlut the deciding judge shall have rejected an application for a review of the judgment, his rejection is to all intents and purposes final; unless he himself shall see grounds, on a subsequent application, to admit a review; and it is not competent to any other judge or judges of the court, at any subsequent period, to authorize a review of the order rejecting the review. No 982, 16th October 1835, ... II. 230

11. When the Sudder Dewanny Adawlut has rejected a petition of special appeal from the decision of the zillah or city judge in appeal from the original decision of a principal sudder ameen, as no appeal has been admitted from the judge's decision, he may apply for permission to review it. But when the Sudder Dewanny Adawlut has summarily confirmed the original decision of the zillah or city judge without summoning the respondent, the order is to all intents and purposes a judgment of the Sudder Dewanny Adawlut and open to review by that Court alone. No. 1057, C. C. 11th November, W. C. 25th November 1836, II. 287

12. Documents filed with applications for a review of judgment under the provisions of Section 4, Regulation XXVI. 1814, are considered as exhibits, and liable as such to the rule contained in Article 5, Schedule B, Regulation X. 1829, in the same manner as if they had been filed or entered on the proceedings of the original suit, or when it was before the court in appeal, whether regular or special. No. 1058, C. C. 18th November, W. C. 21st October 1836, ... II. 287

13. A judgment passed by an additional judge, while he officiated as judge of the district, is to be reviewed by him, if still attached to the district, and not by the judge. No. 1123, C. and W. C. 29th December 1837, ... III. 1

14. A party whose petition of review has been rejected by the lower court is not entitled to a deduction of the period during which his application was pending in the lower court, in calculating the period allowed for preferring a regular appeal from the original decision. The appellate court should however consider the plea, if urged as a cause of delay, and admit it or not as under all the circumstances of the case may appear just and proper. No. 1127, W. and C. C. 2d February 1838, ... III. 2

15. It is not competent to a zillah judge to re-admit a petition of special appeal which has been once struck off the file for any reason, without obtaining the sanction of the Sudder Dewanny Adawlut. No. 1171, C. C. 7th September, W. C. 10th August 1838, ... III. 27

16. When a zillah judge has rejected a petition to sue *in formâ pauperis*, he is not competent of his own authority to admit a second application from the same party and in the same matter; but must treat the second application as a petition of review of his first order and proceed accordingly. No. 1229, W. C. 5th July, C. C. 2d August 1839, ... III. 57

17. The order of a zillah judge dismissing a suit on default, or without investigation of the merits, is open to review. No. 1269, W. C. 3d January, C. C. 7th February 1840, ... III. 70

18. The order of a zillah judge dissenting from a principal sudder ameen, as to the propriety of a review of the latter's judgment, on a reference under Clause 2, Section 19, Regulation V. 1831, is final and not open to revision on appeal to the Sudder Dewanny Adawlut. No. 1294, C. C. 14th May, W. C. 28th July 1841, ... III. 39

19. A case having been remanded for irregularity without trial of its merits, either party desirous of a review of that order, after the expiration of three months, must move the court by a petition written on a stamp of the full value for petitions of plaint. No. 1375, W. C. 31st January, C. C. 24th February, 1843, ... III. 102

REWARDS.

1. A police darogha is equally entitled with others to the reward given on the conviction of illicit manufacturers or sellers of spirituous liquors, &c. No. 43, 10th November 1808, ... I. 11

2. Though the rule contained in Section 16, Regulation XVI. 1810, does not expressly provide for the case of a convict escaping from custody, the Nizamut Adawlut are of opinion that under the general tenor of the rule, and with reference to the further provision in Section 18, the court of circuit are competent to authorize a reward to the extent specified in the cases referred to. No. 229, 30th November 1815, ... I. 76

3. Individuals, not being police officers, are not entitled to the commission allowed to police officers on the recovery of stolen property; but the magistrate may reward them for any eminent service rendered to the police, the necessary sanction being obtained from the proper authority. No. 381, 22d April, 1825, ... I. 158

4. A magistrate may recommend to the superintendent of police, for reward, a police cotwal who in searching certain houses found 26,000 rupees, but the cotwal would not be entitled to the percentage prescribed by Clause 17, Section 16, Regulation XX. 1817. No. 511, 19th June 1829, ... I. 217

5. A session judge may sanction a reward for meritorious services, and also direct the distribution of the percentage on the recovery of stolen property, authorized by Clause 17, Section 16, Regulation XX.

1817. No. 727, C. C. 26th October, W. C. 7th December 1832, ... II. 61
No. 1136, C. and W. C. 9th March 1838, III. 7

RYOTS.

1. The Sudder Dewanny Adawlut declined defining the extent of power of "compelling the attendance of ryots," conferred on zumeendars under Section 15, Regulation VII. 1799, and observed that on a complaint being preferred to the magistrate, it would be for him to decide whether any unnecessary or unauthorized degree of severity had been resorted to. No. 382, 22d April 1825, ... I. 158

2. An indigo planter, not being a zumeendar, has no power to summon ryots and compel their attendance. No. 394, 17th June 1825, ... I. 165

SALARY OF MILITARY OFFICERS.

See "Military Cantonments, Courts, &c. Civil," No. 5.

SALARY OF MOONSIFFS.

See "Moonsiffs, VI." No. 6.

SALARY OF PUBLIC OFFICERS.

See "Native Officers," No. 27.

SALE.

See "Execution of Decrees, IV." *passim.*

SALT.

1. The object of Clause 6, Section 7, Regulation VI. 1801, in requiring a report to be made to Government, was ultimately to afford relief to persons who might be prosecuted for the illicit manufacture of salt, but not to preclude such persons from appealing from the zillah judge to the Superior Court. No. 8, 27th July 1805, ... I. 3

2. Suits instituted in conformity with Section 32, Regulation VI. 1801, for the recovery of fines for the illicit manufacture, &c. of salt, must be received and tried as regular suits and the plaint drawn up on the full stamp. [*But see Sections 30 to 35, Regulation X. 1819 and Act XXIX. 1838.*] No. 224, 21st September 1815, ... I. 74

3. Only one fine of 5000 rupees can be levied under Clause 1, Section 7, Regulation VI. 1801, whatever be the number of killarees within the same estate. [*Superseded by Section 31, Regulation X. 1819, which imposes a fine not exceeding 500 rupees for each killaree.*] No. 296, 24th September 1818, ... I. 118

4. Fines leviable under Section 12, Regulation I. 1824, for illicitly cultivating salt *churs*, if not paid, should be commuted to imprisonment under the rules contained in Section 3, Regulation XIV. 1797, and Section 19, Regulation IX. 1807. No. 388, 3d June 1825, ... I. 160

5. The fine imposed by Section 67, Regulation X. 1819, should be in proportion to the quantity of illicit salt seized, and not according to the number of persons engaged in the illicit transaction. No. 471, 22d February 1828, ... I. 200

6. The provisions of Section 38, Regulation IX. 1808, which declare native officers of the custom department, subject for extortion to imprisonment, fine, and corporal punishment, are not applicable to native officers of the salt department, who however are of course amenable for acts of extortion under the general regulations. No. 476, 8th April 1828, I. 202

7. In cases forwarded by salt officers to the judge under Section 113, Regulation X. 1819, the accused is at liberty to employ a vakeel and put in a written defence, if he deem that course preferable to pleading personally: and such written defence should be on the stampt paper of the value prescribed for miscellaneous petitions presented in the judge's court. No. 483, 23d May 1828, ... I. 205

8. Regulation X. 1819 apparently does not provide for cases wherein the defendants are absent, or against whom the agent has recorded his opinion of "guilty" exparte, its provisions being confined to an indication of the course of proceeding to be followed by the judge when the person of the defendant is produced: it is however the duty of the judge to afford his aid to apprehend any offender who has evaded or resisted the agent's process. No. 483, 23d May 1828, ... I. 205

9. Section 104, Regulation X. 1819 gives the agent the same powers for the apprehension of those charged with offences against the regulation, as the magistrates are authorized to use. No. 483, 23d May 1828, ... I. 205

10. The point ruled in Construction 471 was again ruled in regard to the penalty for illicit dealing in opium. No. 494, 20th February 1829, ... I. 210

11. Sections 36 and 41, Regulation X. 1819, clearly recognize a *chullaun*, granted for a portion of a lot of salt for which a *rowanneh* may have been taken out, as an instrument equally valid as a rowanneh to protect the salt covered by it from confiscation. A different construction would warrant the confiscation of a boat laden with salt, the owner of which, trusting to the validity of the *chullaun*, might have hired it without any design to aid in a smuggling transaction. Nor can this construction enable the holder of a *rowanneh* to transport a greater quantity of salt under its cover than the quantity specified in it; as an endorsement on the *rowanneh*, shewing the quantity of each portion of the lot described in it,

for which a *chullaun* may be granted, is all that is required to prevent its serving to protect more than the portion remaining entitled to its protection. No. 653, 12th August 1831, ... II. 16

12. The fines imposed for a breach of the salt laws are commutable to a term of imprisonment. If the fine be paid before the defendant is committed to jail, the case is concluded: if forthcoming after confinement, the case is also disposed of, and the prisoner must be released. If the fine be not paid, the person fined must undergo the prescribed period of imprisonment in commutation, and the levy of fine is then barred: i. e. the fine is not demandable after the imprisonment has been undergone, and the party released. [See Construction 1374, No. 14.] No. 1135, C. and W. C. 2d March 1838, ... III. 7

13. Scraping a salt chur, with a view to collect salt earth, is not an offence punishable under the provisions of Section 3, Regulation X. 1826. No. 1211, W. C. 19th April, C. C. 10th May 1839,..... III. 50

14. Fines not exceeding 50 rupees must be made commutable by imprisonment, and the orders executed by the confinement of the individual for the prescribed period, unless the fine be paid in the interim, when the party is entitled to his discharge. If the fine exceed 50 rupees but be less than 400 rupees, and the order contain no provision for commuting the same to imprisonment in default of payment, the judge must proceed to realize the fine exactly in the same manner he would do in execution of a decree of his own court of the same amount as the fine imposed, taking care that the term of imprisonment in no case exceeds the scale laid down in Section 110, Regulation X. 1819. No. 1374, C. C. 27th January, W. C. 17th February 1843, ... III. 102

SECOND SUIT, INSTITUTION OF.

1. A judge on proof furnished by the records of his own office of the institution of a prior suit by A, is competent to dismiss a suit instituted by B, for the same cause of action, without issuing notice on A to appear and answer thereto. No. 999, C. C. 8th January, W. C. 5th February 1836, ... II. 244

SECURITY BONDS.

See "Stamps, VII." *passim.*

SECURITY FOR ATTENDANCE.

See "Bail," *passim.*

SECURITY FOR COSTS.

See "Appeals, V." Nos. 1, 4, 7.
See "Original Suits, II." No. 13.

SECURITY FOR DEBT.

A surety is competent to alienate property of which in the security bond he calls himself the proprietor, but which is not specifically pledged as security for the debt. No. 1017, C. C. 24th June, W. C. 15th July 1836, ... II. 261

See "Stamps, II." Nos. 6, 9, 15, 17, 18.

SECURITY IN APPEALS TO THE KING IN COUNCIL.

See "Appeals to the King in Council," Nos. 2, 3, 5.

SECURITY FOR GOOD CONDUCT.

1. In cases of the nature mentioned in Section 2, Regulation VII. 1811, the darogha is not authorized to apprehend the accused until he have made the enquiry directed by that section: the "evidence" which he is required to send to the magistrate is the *written evidence*, the witnesses being bound by recognizances to attend before the magistrate on a specific date. No. 149, 31st March 1814, ... I. 47

2. Suspected persons detained by the magistrate on requisition of security may be employed to work on the roads. No. 160, 20th May 1814,..... I. 49

3. A judge of circuit cannot alter or modify the order of a former judge fixing the amount of security to be furnished by a prisoner. [*Superseded by Clause* 2, *Section* 10, *Regulation VIII.* 1818.] No. 173, 27th July 1814, ... I. 53

4. In all cases wherein an order may have been passed by the Nizamut Adawlut or court of circuit, directing the magistrate to hold a prisoner to security to be approved by the court of circuit, the magistrate should fix the amount as he may deem proper, reporting the same for the consideration and orders of the court of circuit. No. 236, 9th February 1816, I. 79

5. The period fixed for the detention of a prisoner from whom security has been required should correspond with the period for which the surety is required to the responsible. No. 347, 29th March 1822, ... I. 143

6. When a case is brought before a judge of circuit by petition from a security prisoner, there is no discretion to enhance the period of detention. No. 347, 29th March 1822, ... I. 143

7. A person sentenced by a magistrate to imprisonment in default of furnishing security has no appeal to the court collectively: the cognizance of his case lies with the individual judge who may visit the station at which he is confined. [*Superseded by Construction* 458, No. 9.] No. 390, 10th June 1825, I. 161

8. The revision of the judge of circuit is not restricted to cases in which the magistrate has passed orders for security since the sessions immediately preceding; but he may call for and revise, with or

without petition, any case of any security prisoner relative to which the preceding judge may not have already recorded an order. [*But see Section 5, Act XXXI. of* 1841.] No. 458, 31st August 1827, ... I. 193

9. A person sentenced by the magistrate to furnish security has an appeal to the court collectively, and the cognizance of his case does *not* solely rest with the judge visiting the station where he may be confined. No. 458, 31st August 1827, ... I. 193

10. A judge of circuit holding the sessions may call for the magistrate's proceedings connected with a requisition of security, without petition, and singly pass such orders thereon as may appear just and proper; but, when he has concluded the jail delivery and despatched his report thereon to the Nizamut Adawlut, he cannot singly release a prisoner, but may record his opinion as a single judge of circuit, and refer the matter to the court at large. No. 460, 31st August 1827. [*See Section 5, Act XXXI.* 1841.] ..... I. 194

11. An individual, who has furnished the required security, may appeal to the court of circuit at the sudder station, or to the judge on circuit, who, however, cannot reverse or alter the magistrate's order without obtaining the concurrence of one of his colleagues. No. 460, 31st August 1827,..... I. 194

12. A judge on circuit is competent to call for the proceedings in the case of a prisoner detained on requisition of security, although such prisoner may not have presented any petition for two or three sessions after the order for his confinement. [*See Section 5, Act XXXI. of* 1841.] No. 460, 31st August 1827, ... I. 194

13. The magistrate's proceedings should be laid before the judge on circuit at the next ensuing sessions in all cases in which he may demand security for a period exceeding 12 months. No. 517, 7th August 1829, ... I. 220

14. An assistant vested with special powers under Section 2, Regulation III. 1821, cannot demand security for good conduct from a prisoner sent in by a darogha under Section 2, Regulation XX. 1817, or commence an enquiry into the character of a prisoner made over to him for trial on a specific charge. No. 548, 23d April 1830,... .. I. 231

15. The penalty of a security bond for good conduct should be enforced by the magistrate according to the same rules and by the same process observed by civil courts in enforcing payment of money adjudged to be due by a decree. No. 734, 9th November 1832, ... II. 64

16. A session judge having arrived at the conclusion that the acquitted prisoners were notorious robbers of desperate and dangerous character, is competent to demand from them security for their future good behaviour, or in default thereof to have them detained in confinement. No. 771, 22d March 1833, ... II. 88

No. 823, C. C. 30th August, W. C. 4th October 1833, ... II. 124

17. Security prisoners cannot be exempted from labor by the payment of a fine. No. 881, C. C. 18th April, W. C. 16th May 1834, ... II. 169

18. Distance, or residence in another district, forms no grounds for the rejection of the security of a person tendered by a prisoner under orders to give security for good conduct. No. 920, 5th December 1834, ... II. 194

19. Construction 823 decides the question of the competency of a session judge to call for security from any one acquitted by him of the specific charge on which he may have been tried: he is equally competent to direct an investigation into character as a preliminary to the call for security. No. 1180, C. and W. C. 19th October 1838,..... III. 32

20. It is not competent to a court of sessions to add a demand of security to a specific sentence passed on a prisoner committed for trial, or to whom a specific punishment has been adjudged on a regular trial by a magistrate. No. 1195, W. C. 16th December 1836, C. C. 17th March 1837,..... .. III. 41

21. The removal of prisoners confined in a criminal jail on a requisition of security for good conduct, to another district, for the purpose of being induced to give evidence as approvers before the commissioners appointed for suppressing dacoitee, is illegal: though, if such prisoners have no objection to be removed to the jail of another district for the sake of giving evidence, the Court of Nizamut Adawlut may sanction their removal. No. 1240, W. C. 2d August, C C. 30th August 1836,... III. 60

SECURITY FOR STAYING EXECUTION OF DECREES.

See "Execution of Decrees, III." *passim.*

SECURITY OF DEFENDANTS.

1. The order of a judge refusing to take security from a defendant who is said to be about to abscond, is open to appeal to the Sudder Dewanny Adawlut. No. 963, C. C. 26th June, W. C. 31st July 1835, ... II. 219

See "Attachment," Nos. 6, 14, 17, 20, 21.

SECURITY OF PAUPERS.

See "Paupers," Nos. 4, 10, 14, 18, 19.

SECURITY TO KEEP THE PEACE.

See "Moochulka," *passim.*

SERVANTS.

See "Workmen and Servants," *passim.*

SESSION JUDGES.

1. A session judge cannot try the case of a prisoner on a charge for which he as magistrate had committed other persons for trial. No. 685, 13th April 1832, II. 39

2. A session judge cannot try a commitment made by himself as civil judge. No. 691, W. C. 11th May, C. C. 1st June 1832,..... II. 43

3. A session judge may sanction rewards for meritorious services, and order the distribution of the commission on the value of stolen property recovered. No. 727, C. C. 26th October, W. C. 7th December 1832,..... II. 61

4. A session judge having come to the conclusion that an acquitted prisoner is a notorious robber, of dangerous and desperate character, is competent to require him to furnish security for his future good conduct, or in default to order him to be detained in custody. No. 771, 23d March 1833,..... II. 88

No. 823, C. C. 30th August, W. C. 4th October 1833,..... II. 124

5. A session judge is competent to dispose of the cases of insane prisoners agreeably to the rules contained in para. 4, Circular Order, Nizamut Adawlut, 11th February 1825. No. 822, C. C. 30th August, W. C. 20th September 1833, ... II. 123

6. A session judge may fine a mohurrir of the magistrate's court, for negligence and disrespect while attending on him during the criminal sessions. No. 882, C. C. 18th April, W. C. 16th May 1834, II. 169

7. The power of a session judge to fine, is unrestricted, as to amount, except when it is defined by any specific regulation, [as in the case of *dhurna* by Regulation VII. 1820]. No. 959, C. C. 19th June 1835,..... II. 217

8. A session judge is competent to try a prisoner, committed under directions issued by him as civil judge, for any criminal act not being forgery or perjury. No. 975, C. C. 7th August 1835, ... II. 226

9. A session judge is competent to direct the re-apprehension of a person charged with a criminal offence, who may have been acquitted by the magistrate, and sentence him to punishment after hearing his defence. [*Superseded by Act XXXI.* 1841.] No. 986, W. C. 6th November, C. C. 4th December 1835, ... II. 234

10. It is the duty of the session judge to send for any case, the order passed in which may appear to him, on a revision of the monthly statements of the magistrate, to be of questionable propriety. [*But see Act XXXI. of* 1841.] No. 986, W. C. 6th November, C. C. 4th December 1835,..... II. 234

11. It is competent to a session judge, in his appellate capacity, to call on the magistrate to submit an English report of any case that he may think proper. No. 1071, W. C. 3d February, C. C. 3d March 1837, ... II. 296

12. A session judge cannot order a magistrate not to issue orders to the police to apprehend a released convict. No. 1100, C. C. 21st July, W. C. 25th August 1837, ... II. 317

13. A session judge has no power to receive evidence, which has not been previously heard before the lower court, except in such cases as have been regularly committed to him for trial at the sessions: if in revising a case included in the magistrate's abstract, further investigation appear to him necessary, he should direct the magistrate to make it and communicate the result to him. No. 1104, C. and W. C. 1st September 1837, ... II. 320

No. 1169, C. C. 31st August 1838, ... III. 26

14. The power of hearing appeals from the jailor and other subordinate officers of the jail, is, by Section 7, Act XXIV. 1837, vested in the session judge. No. 1142, C. and W. C. 23d March 1838,... III. 10

15. The magistrate's proceedings regarding the escape of convicts should be submitted to the session judge under the provisions of Clause 1, Section 14, Regulation XVII. 1816: but agreeably to Clause 2 of that Section, the escape should be reported to the superintendent of police, and measures for their apprehension should be taken by the magistrate in communication with that authority. By Section 7, the superintendent of police cannot exercise any authority over the guards of prisoners effecting their escape. No. 1162, C. and W. C. 3d August 1838, ... III. 20

16. It is competent to a session judge, on sufficient grounds, to order the magistrate to replace on his file a case struck off by him on default. No. 1169, C. C. 31st August 1838, ... III. 26

17. When a session judge has acquitted a prisoner of the specific charge on which he was tried, he is competent to direct an enquiry into his character as a preliminary to a call for security. No. 1180, C. and W. C., 19th October 1838, ... III. 32

18. The superintendence and control of the jail of the district at which his court may be held, as well as that of any district that may be subject to his jurisdiction, is vested in the session judge. No. 1198, W. C. 11th January, C. C. 25th January 1839,..... III. 42

19. A session judge holding a special sessions for the trial of a prisoner committed by a civil judge, is not competent to direct the civil judge to commit any other party who may appear from the evidence to be implicated: he may suggest the expediency of the measure, but the compliance of the civil judge is optional. No. 1206, C. C. 1st April, W. C. 26th April 1839, ... III. 48

20. An order passed by the magistrate to prevent persons going about at night after a fixed hour, is appealable to the sessions judge under Section 5, Act XXIV. 1837. No. 1239, C. C. 19th July, W. C. 20th September 1839, ... III. 60

21. All appeals from a joint magistrate of whatever powers are appealable, under Act XXXI. 1841, exclusively to the session judge. No. 1326, W. C. 12th February, C. C. 26th March 1842, ... III. 87

lower courts should be set aside, and the court of first instance directed to restore the case to its original number on the file, and proceed to dispose of it by allowing the plaintiff an opportunity of supplying the defect. No. 1161, C. and W. C. 3d August, 1838, ... III. 19

9. As the law vests the local revenue authorities and the Board of Customs, Salt, and Opium, with the power of determining whether a particular document does or does not require a stamp, a deed declared by such authority to be exempt from stamp duty must be received by the courts. No. 1331, C. C. 1st April, W. C. 15th April 1842,..... III. 88

II. Stamps for Private Deeds.

1. *Hoondees* must be written on stampt paper. [*See Schedule A, Regulation X.* 1829.] No. 154, 21st April 1814, ... I. 48

2. *Kabeennamehs* must be written on stampt paper. [*See Schedule A, Regulation X.* 1829.] No. 185, 17th August 1814, ... I. 57

3. The valuation of land paying revenue to Government assumed in Clause 1, Section 14, Regulation I. 1814, for regulating the stamp for petitions of plaint, is not applicable to the valuation of property between individuals coming within the provisions of Section 11, Regulation I. 1814. [*Regulation I. of* 1814 *has been rescinded by Regulation X. of* 1829.] No. 274, 18th June 1817,..... I. 98

4. *Bhye khatas*, or account books, need not be stamped. No. 275, 2d July 1817, ... I. 99

5. A deed of gift drawn on unstamped paper by an attorney in Calcutta, for the conveyance of property at Moorshedabad subsequent to the period fixed for the operation of Regulation I. 1814, the donor being at the time a resident of Calcutta, and the donee of Moorshedabad, is not admissible as evidence in the country courts. [*See note to No.* 3.] No. 312, 1st April 1820,..... I. 128

6. A security bond for the rent of *malgoozaree* land, executed to a landholder in behalf of his tenant, [Government not being a contracting party,] falls within the reason of the exemption provided for by Section 12, Regulation I. 1814, and may be received without a stamp. [*See note to No.* 3.] No. 321, 4th August 1820, ... I. 132

7. Bills of exchange executed within the Company's territories must be drawn on stampt paper; those executed beyond the Company's territories require no stamp. [*But see Articles 4 to 6, Schedule A, Regulation X.* 1829.] No. 324, 11th August 1820, ... I. 133

8. Where in a separate leaf in a merchant's book an entry of a sum advanced to an individual has been made in the form of a bond by the debtor, bearing interest, and regularly signed and attested, the leaf bearing no stamp, the writing must be treated as a bond on plain paper, and rejected *in toto*. No. 325, 18th August 1820, ... I. 133

9. If a person becoming security for the payment of a debt, affix his name in recognition of his responsibility, he is liable to be sued as a party with the principal, the transaction being a joint one; and it is not necessary to the admissibility of an action against him, that he should have entered into a regular security bond, on a separate stamp of the same value as that of the original obligation. No. 341, 1st June 1821,..... I. 139

10. Acknowledgments of partial payments of instalments are not required each to be written on stampt paper. [*Receipts above 50 rupees are required by Schedule A, Regulation X.* 1829, *to be written on stampt paper.*] No. 341, 1st June 1821, ... I. 139

11. In the transfer by sale of a house or other real property, an acknowledgment by the seller of the receipt of the purchase money, written on the back of the original deed, is not sufficient. A separate acknowledgment [*kubsool wusool*] should be executed on the prescribed stamp, before it can be received in evidence in the course of a suit on the subject of such transfer. No. 341, 1st June 1821, ... I. 139

12. There being no regulation which requires that *muhajon's books* shall be stamped, they are admissible as evidence though written on unstampt paper. No. 592, 6th May 1831,..... I. 247

13. All leases and counterparts [*pottahs* and *kuboolyuts*] granted to, and taken from the actual cultivators of the soil, should be written on unstampt paper, whether Government be, or be not, a party to the transaction No. 635, 20th May 1831, ... II. 9

14. Deeds of *hibeh-bila-yewuz* should be charged as "agreements" with such stamp as the parties may determine. No. 836, W. C. 11th October, C. C. 8th November 1833,..... ..... II. 131

15. The account of a party being made up, and a balance struck and stated according to established usage at the foot of the sheet in the *bhye khatta*, or banker's book of accounts, a third party renders himself responsible for the eventual adjustment of the balance, by affixing his name in the capacity of security for the debtor's discharge of the creditor's claim. To render this security available, the leaf of the account book must be stamped. At the same time, if this be not done, it rests with the claimant to adduce other sufficient evidence of the security having been given, independent of the paper exhibiting it, which in its present state cannot be received in evidence of the fact. No. 970, C. C. 7th August, W. C. 4th September 1835, ... II. 233

16. The fact of two or more distinct and separate debts due by different individuals being engrossed on the same stamp does not vitiate the deed, provided the stamp be of a sufficient value to cover the whole amount lent. No. 1087, C. C. 21st April, W. C. 23d March 1837, ... II. 326

17. Though a separate security bond is not required when a person renders himself jointly liable for

the debt with the borrower by signing the original bond, [See Construction 341, No 9,] yet if a formal security bond be executed on the same paper as the original instrument, it is not admissible under the stamp regulations against the security. No. 1121, W. C. 29th December 1837, C. C. 2d February 1838, II. 333

18. The above Construction of Circular Order, Sudder Dewanny Adawlut, 27th October 1837, was merely intended to protect the rights of Government, and not to declare deeds drawn up under the circumstances stated inadmissible, provided proper measures are taken to have them legalized, by application to the revenue authorities under Section 11, Regulation X. 1829, to have the proper stamp affixed to them. No. 1147, C. and W. C. 27th April 1838, ... III. 12

19. It is not necessary that bonds, &c. should be drawn out in Company's rupees: they may be drawn out in siccas ; and then, if for *value*, the Company's rupee will regulate the stamp,—if for a specific *coin* [as if a person covenant to deliver so many coins of the sicca currency, or so many dollars], the payment must be in the coin covenanted. No. 1151, C. and W. C. 27th April 1838, ... III. 15

20. A *hoondee* drawn on plain paper, if negotiated after acceptance cannot be admitted in court unless it be stamped, or be accompanied by a copy written on paper bearing the prescribed stamp. No. 1279, W. C. 19th June, C. C. 14th August 1840, ... III. 73

21. A memorandum of agreement for the time of the services of a *mokhtar*, specifying a fixed sum as his monthly stipend in money, and guaranteeing to him his daily food, must be written on the stamp prescribed by Article 2, Schedule A, Regulation X. 1829. No. 1306, W. C. 20th July, C. C. 20th August 1841, ... III. 82

III. Stamps in lieu of Institution Fee for Petitions of Plaint and Appeal.

1. The stamp duties prescribed by Regulation I. 1814, Section 13, must be levied on all appeals admitted after 1st May 1814, on the valuation stated in Section 14. [*Regulation I. of* 1814 *has been repealed by Regulation X. of* 1829.] No. 163, 2d June 1814, ... I. 50

2. When a plaint cannot be written on one sheet of paper, the remainder should be drawn up on paper prescribed for supplements by Section 17, Regulation I. 1814. [*Superseded by Construction* 870, *No.* 13.] No. 170, 20th July 1814, ... I. 52

3. The provisions of Sections 13 and 14, Regulation I. 1814, are applicable to all petitions of appeal, preferred subsequently to the 1st May 1814. [*See note to No.* 1.] No. 180, 7th August 1814, ... I. 56

4. No institution fee is required for summary suits. [*Superseded by Section* 7, *Regulation VIII.* 1831.] No. 187, 7th September 1814, ... I. 58

5. The Circular Order, Sudder Dewanny Adawlut, 20th April 1818, which provides that in case of a money bond, the stamp is to be calculated on the principal sum lent, does not apply to the value of stamp for plaints for the recovery of money ; in which case the aggregate of principal and interest is to regulate the value of the stamp. No. 409, 2d December 1825, ... I. 172

6. In suits for lakheraje land in which Government would not be entitled to any revenue from the land, if resumed, the petition of plaint must be written on the stampt paper prescribed for rent-free lands, whether the claim be by an individual against a *zumeendar* to hold land on a rent-free tenure, or by a *zumeendar* to resume land held on an illegal rent-free tenure. No. 576, 1st October 1830, ... I. 241

7. If the cause of action be one and the same, a plaintiff may sue for two or more distinctly assessed *mouzahs* or *mehals* in one and the same action, laying his plaint at the aggregate value of the whole sued for. No. 577, 5th November 1830, ... I. 241

8. The penalty of nonsuit provided in the concluding part of Article 8, Schedule B, Regulation X. 1829, is applicable to all suits in which the conditions contained in those provisions have not been complied with. No. 577, 5th November 1830, ... I. 241

9. The stamp duty in lieu of the institution fee is not leviable on plaints in summary suits, such plaints being taxed under Article 7, Schedule B, Regulation X. 1829. [*Superseded by Section* 7, *Regulation VIII.* 1831, *which requires such plaints to be written on* 1-4*th the full stamp.*] No. 583, 7th January 1831, ... I. 244

10. In suits for *talooks*, *ousut talooks*, *hawallehs*, or *ousut hawallehs*, if instituted prior to the enactment of Regulation X. 1829, the judge, in determining the value of the cause of action, will be guided by the provisions of Section 7, Regulation XXVI. 1814. In suits instituted subsequently, the rules contained in paragraph 4, Article 8, Schedule B, Regulation X. 1829, are applicable. No. 687, 27th April 1832, ... II. 40

11. Though the land included in an *ijareh* or in the *jote* of a cultivating *ryot* cannot be transferred by sale, the interest of the party claiming the *ijareh* or *jote* is capable of being valued : the plaintiff should be allowed to lay his suit at the amount which he may consider the value of his interest in the thing claimed ; to which if the defendant make objections, the court would decide thereon, after making the summary enquiry directed in Section 4, Regulation XIII. 1808 No. 702, C. C. 6th July, W. C. 27th July 1832, ... II. 47

No. 1205, W. C. 15th March, C. C. 12th April 1839, ... III. 46

12. In suits instituted in the court of a moonsiff by a resident cultivator to obtain a reversal of a summary decision passed by a collector, adjudging a balance against him, and ejecting him as a defaulter,

the value of the suit should be estimated at the amount of the rent in dispute, or in other terms, at the sum sued for in the first instance. No. 862, W. C. 7th February, C. C. 28th February 1834, II. 156

No. 1205, W. C. 15th March, C. C. 12th April 1839,..... III. 46

13. When the whole matter of a petition of plaint or appeal cannot be comprised in a single sheet of stampt paper, the additional sheets need not be stampt paper. No. 870, W. C. 21st February, C. C. 27th March 1834, ... II. 161

14. Fractional parts of rupees are not to be excluded in calculating the value of stamps for plaints. No. 874, W. C. 4th March, C. C. 4th April 1834,..... II. 164

15. In a suit by a mortgager to regain possession of the property mortgaged, the amount of stamp should be calculated on the value of the property, [due regard being had to the rules laid down in Regulation X. 1829, for estimating that value,] and not on the sum for which the property was mortgaged. No. 957, W. C. 17th June, C. C. 7th August 1835, ... II. 215

16. Petitions of appeal from the decisions of collectors, under Regulation II. 1819, must be written on the full stamp, as in other cases of appeal. No. 987, Government, 17th November 1835,... II. 235

17. The defendant's objections to the value of the plaint should generally be brought forward in the answer to the plaint; when the presiding judge, after enquiry, will permit the plaintiff, should the value be underrated, to file a supplementary plaint under Section 7, Regulation XXVI. 1814. Cases however may occur, in which, though the defendant has not objected, it would be the duty of the appellate court to notice and rectify the error. No. 1046, C. C. 16th September, W. C. 2nd September 1836,..... II. 280

18. In cases of pre-emption, the value of the property should be estimated according to the rules of Article 8, Schedule B, Regulation X. 1829, and not at the amount inserted in the deed of transfer between the buyer and seller, or the aggregate of both. No. 1047, C. C. 23d September, W. C. 14th October 1836, ... II. 281

19. In a suit for 4646 sicca rupees, which equal 5254 Company's rupees, the plaint should be written on a stamp of 150 rupees, as required for the former, and not of 250 rupees, as required for the latter sum. [*See Circular Order, Sudder Dewanny Adawlut, 15th April*, 1842.] No. 1068, C. C. 20th January, W. C. 3d February 1837, ... II. 294

20. In suits by *kashtkars* against proprietors of land, whether assessed or rent-free, to maintain, preserve, or obtain their right of cultivation of a given quantity of land, held on a *pottah*, by prescription or otherwise; or to reverse a summary decree of ejectment passed against them in the zumeendar's favor, under the provisions of Regulation XLIX. 1793; as well as suits on the part of proprietors, whether *malgoozars* or *maafeedars*, to eject an under-tenant from land held on a ryotty tenure; the value of the amount of action must be estimated according to the rule contained in para. 4, Article 8, Schedule B, Regulation X. 1829. No. 1101, W. C. 4th August, C. C. 25th August 1837, ... II. 317

21. Petitions of plaint against officers of Government in their official capacity, preferred under Regulation II. 1814, must be written on stampt paper, like other petitions of plaint. No. 1116, W. and C. C. 8th December 1837,..... II. 330

22. Government having resumed a *jagheer* in Benares, concluded a *zumeendaree* settlement of it with the late *jagheerdar* for a term of ten years. Another party, claiming the proprietary right, brings an action to establish the same. Held that, where the settlement is not permanent, the value must be assumed at one year's *jumma*, or, where the land is permanently settled, at three times the annual *jumma*. No. 1143, W. C. 24th March, C. C. 6th April 1838,..... III. 11

23. In a suit to recover on an account kept in siccas, supposing the agreement to be for *value*, and not for *specific coins*, the calculation must be made at Company's rupees 106-10-8 per 100 siccas, or the intrinsic difference. [*But see Construction* 1068, No. 19.] No. 1151, 27th April 1838,..... III. 15

24. When the plaintiff sues for the principal of a debt, in a court which he knows cannot adjudge a larger sum without, at the same time, claiming interest, he must be held to have relinquished his claim to interest, and cannot afterwards institute a second suit to recover it. (*See also Circular Order, 11th January* 1839.) No. 1182, C. and W. C. 2d November 1838, ... III. 32

25. Costs of suit are not to be added to the original amount in estimating the value of the property claimed No. 1190, C. and W. C. 14th December 1838, ... III. 40

26. The provisions of Sections 12 and 13, Regulation XXVIII. 1814, apply to any pauper appellant, whether he was a pauper in the original suit or not: i. e. he must present his petition of appeal on the stamp required for miscellaneous petitions, &c. But if the appellant appeared originally as a pauper, he would, of course, be at liberty to file a copy of the decree of the lower court on plain paper, being entitled to such copy by Section 8 of the Regulation. No. 1207, C. C. 1st April, W. C. 26th April 1839,..... III. 48

27. Suits instituted with a view to fix the *jumma* of *ryots'* holdings should be laid at one year's rent. No. 1272, C. C. 31st January, W. C. 19th June 1840,..... III. 71

28. In suits for fractional parts of *malgoozaree* estates, the amount of action is to be computed on a portion of the *jumma* of the entire estate corresponding with the fractional part sued for, and not at the

selling price. Thus if the suit be for a 4 anna share of an estate assessed at 1000 rupees and within the range of the permanent settlement, the valuation will be 750 rupees or three times the jumma [250 rupees] of the fractional portion. No. 1340, W. C. 18th May, C. C. 17th June 1842, ... III. 91

IV. Stamps for Pleadings.

1. The pleadings in the courts of the native commissioners need not be written on stampt paper. No. 182, 17th August 1814, ... I. 57
No. 243, 15th March 1816,..... I. 81

2. Pleadings in summary suits need not be written on the stamp prescribed for pleadings by Section 17, Regulation I. 1814. No. 187, 7th September 1814, ... I. 58

3. All petitions filed in original suits, or in appeals regular or special, must be written on the stampt paper provided for pleadings by Section 17, Regulation I. 1814. *(See Articles 7 and 9, Schedule B, Regulation X. 1829.)* No. 202, 26th April 1815, ... I. 63

4. Pleadings in the court of the registers vested with special powers, wherever stationed, must be written on the same stamp as in the judge's court. [*Obsolete.*] No. 223, 7th December 1815,..... I. 73

5. Stampt paper is not required for pleadings in original suits and appeals not exceeding 64 rupees. *(Superseded by Clause 3, Section 9, Regulation V. 1831.)* No. 276, 2d July 1817, ... I. 99

6. The *wujoohaat-i-appeal*, or reasons for appealing, if not stated in the petition of appeal, should be filed as a separate pleading on the stamp prescribed by Article 9, Schedule B, Regulation X. 1829. No. 556, 28th May 1830, ... I. 234

7. The pleadings in all suits tried by the moonsiffs, whatever the amount, are exempted from stamp duty. But no suit, however small the amount, instituted before the judge, shall be held exempt, whether eventually referred to the subordinate authorities or retained on the judge's file. Pleadings in the zillah court in suits above 1000 rupees are to be written on 4 rupees paper; in original suits under 1000 rupees, and all appeals from sudder ameens and moonsiffs, on paper value 1 rupee. No. 767, W. C. 8th March, C. C. 29th March 1833,..... II. 87

8. In appeals from the decisions of collectors under Regulation II. 1819, the pleadings and other papers are liable to the same stamp duty as in other appeals. No. 768, W. C. 15th March, C. C. 29th March 1833, ... II. 87

9. Pleadings in appeals from the decisions of registers and principal sudder ameens must be written on a 4 rupee stamp. No. 834, C. C. 4th October, W. C. 8th November 1833, ... II. 131

10. Pleadings in original suits exceeding 5000 rupees, referred to the principal sudder ameens are to be written on stampt paper of one rupee value; Section 3, Regulation VII. 1832, being applicable only to the courts of the zillah and city judges. No. 1118, W. C. 15th December 1837, C. C. 5th January 1838, ... II. 331

V. Stamps for Exhibits and Lists of Witnesses.

1. A person wishing to file several exhibits, or to summon several witnesses, need not file a separate petition for each exhibit or summons. A single petition may be admitted for two or more exhibits or summons, provided the value of the stamp be sufficient to secure to Government the duty established for each exhibit filed or witness summoned. No. 145, 19th March 1814,..... I. 46

2. What has usually been considered as a distinct exhibit would be admissible as such, under Section 15, Regulation I. 1814, whether composed of two or more sheets. No. 146, 19th March 1814, ... I. 46

3. Copies of decrees in regular suits, if filed with petitions of appeal, whether the appeal be special or not, must be considered liable to the rules contained in Section 15, Regulation I. 1814; but if not filed, they do not fall within the rules. No. 179, 17th August 1814, ... I. 56
No. 289, 16th March 1818,..... I. 110

4. Though a party should bring his witnesses, without the issue of a summons, they cannot be examined unless a written nomination for each is filed on the requisite stamp. No. 182, 17th August 1814, ... I. 56

5. The stamp duty for exhibits and lists of witnesses is not leviable in suits before the native commissioners. No. 183, 17th August 1814,..... I. 57
No. 243, 15th March 1816,..... ..... I. 81

6. Nor in summary suits. No. 187, 7th September 1814, ... I. 58
No. 249, 15th May 1816, ... I. 85

7. In the court of a register vested with special powers, wherever situated, the same stamp is required for lists of witnesses and exhibits as in the judge's court. [*Obsolete.*] No. 223, 17th December 1815, ... I. 73

8. Documents filed with petitions of special appeal are not subject to exhibit duty on being filed [*See also Construction* 961, *No.* 10.] No. 537, 8th January 1830, ... I. 228

9. Fees on exhibits and lists of witnesses in suits instituted prior to the operation of Regulation V. 1831, should be adjusted by the regulations applicable to such matters previous to the enactment of that regulation. No. 764, W. C. 1st March, C. C. 29th March 1833, ... II. 86

10. All documents filed with petitions of appeal, except the *vukalutnameh*, the *mokhtarnameh* under which the *vukalutnameh* may be executed, the security bond for costs, or for staying or enforcing execution, and the copy of the decree appealed, must be considered as exhibits, and accompanied by the

usual petition on stampt paper. In applications for special appeal, the exhibit fee would not be required until, on the admission of the special appeal, the documents are filed with the record of the proceedings. No. 961, W. C. 26th June, C. C. 7th August 1835, ... II. 218

11. Documents filed with applications for review of judgment are considered as exhibits and liable to stamp duty. No. 1058, W. C. 18th November, C. C. 21st October 1836, ... II. 287

12. Section 3, Regulation VII. 1832, modifies Schedule B, Regulation X. 1829, only so far as regards pleadings in the judge's court. All lists of witnesses must be charged as exhibits, and written on a stamp of one rupee. No. 1088, C. C. 21st April, W. C. 2d May 1837, ...II. 307

13. In cases still pending before the Court of Sudder Dewanny Adawlut, in which the Court may direct the zillah judge to take evidence on any particular point, the lists of witnesses filed before the judge must be written on the same stamp as if they were filed in the Court of Sudder Dewanny Adawlut, i. e. 2 rupees. But in cases sent back to the zillah judge for further investigation and re-trial, the lists must be written on a stamp of one rupee. No. 1088, C. C. 21st April, W. C. 2d May 1837, ... II. 307

VI. Stamps for Petitions and Applications.

1. The rule contained in Section 9, Regulation XXXVIII. 1795, for levying fees on miscellaneous petitions is superseded by Section 18, Regulation I. 1814. [*Regulation I. of* 1814, *has been repealed, and the present stamp law is Regulation X.* 1829.] No. 155, 21st April 1814, ... I. 48

2. Miscellaneous petitions in suits before the native commissioners need not be written on stampt paper. No. 183, 17th August 1814, ... I. 57
No. 243, 15th March 1816,..... I. 81

3. All miscellaneous petitions and applications presented to a magistrate must be written on the stamp prescribed by Section 18, Regulation I. 1814, [*Schedule B, Regulation X.* 1829,] except from foujdaree prisoners, and civil prisoners relating to their treatment in jail. No petitions on plain paper but those expressly excepted are to be read or filed: but a magistrate may exercise his discretion in receiving petitions on plain paper. No. 247, 1st May 1816,..... I. 84

4. Petitions of persons laying claim to property in moonsiffs' courts under Section 6, Regulation V. 1831, must be written on unstampt paper. No. 706, C. C. 20th July, W. C. 17th August 1832,..... II. 50

5. Applications for the payment of money deposited in court must in every case be made on stampt paper, as a record, unless a specific order should, at the same time, have been passed for the payment of the amount. No. 1093, W. and C. C. 9th June 1837, ... II. 311

6. Application by a pauper appellant, to stay execution of a decree given against him pending appeal, must be written on stampt paper. No. 1132, W. C. 16th February, C. C. 9th March 1838, III. 5

7. Parties objecting to the transfer and sale of property in execution of decrees, may petition the moonsiffs' courts on plain paper. No. 1278, W. C. 5th June, C. C. 26th June 1840,..... III. 73

VII. Stamps for Bail and Security Bonds.

1. Security bonds for costs of suit, &c. entered into by order of a civil court, should be written on the stamp prescribed for petitions presented to the court requiring the security. No. 555, 28th May 1830, I. 234

2. *Moochulkas* taken by magistrates from parties before them to secure their attendance during an investigation into criminal charges, should be written on plain paper. No. 679, W. C. 7th March, C. C. 18th May 1832, ... II. 35

3. Security bonds taken by police officers should be on unstampt paper. No. 710, W. C. 10th August, C. C. 14th September 1832, ... II. 53

4. *Dukhilnamehs* taken from parties put in possession of houses, lands, &c. under a decree of court, need not be written on stampt paper. No. 870, W. C. 21st February, C. C. 27th March 1834, ... II. 161

5. Engagements entered into by farmers of public ferries and their sureties need not be written on stampt paper. No. 1111, C. C. 27th October, W. C. 22d September 1837,..... II. 326

6. When *moochulkas* are taken from defendants in petty criminal cases to secure their attendance, the value of the stamp must be taken from the prosecutor, to be refunded by the defendant at the conclusion of the case, if the magistrate consider a refund proper. No. 1287, C. C. 23d October, W. C. 13th November 1840, ... III. 77

VIII. Stamps for Copies.

1. All copies of decrees and other papers transcribed after 1st May 1814, must be on the stamp prescribed by Regulation I. 1814, notwithstanding the decree or order was passed prior to that date. [*Regulation I. of* 1814 *has been repealed by Regulation X. of* 1829.] No. 171, 20th July 1814, I. 52

2. Copies of papers made for record on delivery of the originals to the parties, need not be written on stampt paper. [*Superseded by Article* 3, *Schedule B, Regulation X.* 1829, *which requires that such copies shall be written on stamps of eight annas.*]
No. 178, 17th August 1814, ... I. 55
No. 207, 1st June 1815, ... I. 66

3. Copies of decrees of the native commissioners do not require stamps. No. 183, 17th August 1814, ... I. 57
No. 243, 15th March 1816,..... I. 81

4. When authenticated copies of the legal documents specified in Section 11, Regulation I. 1814, are required as legal vouchers to be exhibited in lieu of the originals, the copies must be written on the same stamp as the original, whether prepared by a *cazee*, or other authorized person. [*See No.* 20, *Schedule A, Regulation X. of* 1829.] No. 207, 1st June 1815, ... I. 66

5. Copies of *mokhtarnamehs* filed previously to the promulgation of Regulation XVI. 1824, [*repealed by Regulation X. of* 1829,] must be written on a stamp of the same value as was used for the original under the regulations in force when such original instrument was executed. No. 412, 27th January 1826, ... I. 173

6. Copies of deeds, which have not been filed in any court of judicature, required from the office of a register of deeds, must be written on stampt paper of the same value as the original, or on paper of the value of 8 rupees, according as the party taking out the copy may, or may not, have a direct interest in the subject matter of the deed. [*See below No.* 7.] No. 428, 4th August 1826, ... I. 180

7. When such deeds have been filed and become records of court, they are specially exempted from the description of stamps required for deeds not of record. [*See Articles* 20 *to* 23, *Schedule A, and Article* 3, *Schedule B, Regulation X.* 1829.] No. 428, 4th August 1826, ... I. 180

8. Applications for copies are to be made on stampt paper, and the copy is to be written on one side only of the paper. No. 773, W. C. 29th March, C. C. 26th April 1833, ... II. 89

9. Copies or extracts of merchants' accounts and books to be kept with the record must be made on stamps of the value of eight annas per sheet. No. 1372, C. C. 20th January, W. C. 6th February 1843,..... III. 101

IX. Stamp Venders.

1. If a true account of the receipts of the proceeds of the sale of stampt paper entrusted to him be rendered by a stamp vender, only the penalty inscribed in Clause 11, Section 10, Regulation X. 1829, is exigible for the non-delivery of the paper or money due according to the account. But if the account rendered be false, the vender is liable, under the general regulations, to a prosecution in the criminal court for fraud and embezzlement. No. 626, 25th February 1831, ... II. 4

STOLEN PROTERTY.

1. The provisions of Sections 7 and 8, Regulation I. 1811, apply only to cases wherein it shall appear that the persons convicted knew that plundered or stolen property was obtained by robbery or theft, at the time of receiving or purchasing it. No. 133, 12th August 1813, ... I. 39

2. The offence of receiving stolen goods being a distinct offence, and not a mere accession to the theft, the receiver may be brought to trial without the conviction of the thief. The record of the conviction of a person charged with theft is not conclusive against an alleged receiver of the stolen goods to prove the theft, if the latter produce evidence to negative the fact of a theft having been commited. No. 217, 27th July 1815, ... I. 69

3. The receipt of *money* stolen, though punishable under Mahomedan law, does not come within the provisions of Section 7, Regulation I. 1811, relative to persons guilty of receiving "stolen goods, cattle, jewels, or effects." [*But this has been provided for in Section* 4, *Regulation XII.* 1818.] No. 217, 27th July 1815, ... I. 69

4. Knowingly receiving property obtained by burglary comes under the general definition of knowingly receiving stolen property, and the degree of punishment is discretionary according to circumstances. No. 303, 9th July 1819,..... I. 123

5. A commissioner objecting to the magistrate's sentencing receivers to a more severe punishment than the thief, the Court observed that they were not prepared to narrow the discretion confided to the magistrates, as the offence of receiving stolen property admits of so many shades of difference that it would be impracticable to define, with any degree of accuracy, under what circumstances a case of that description shall be considered of an aggravated nature or otherwise. No. 466, 21st December 1827,..... I. 197

6. Property which may be proved to have been purchased with money stolen from the prosecutor, should be delivered to him. No. 604, 11th November 1831, ... I. 251

7. The word "*thangeedaree*" should not be used in commitments to designate the crime of knowingly receiving stolen or plundered property. No. 857, 24th January 1834,..... II. 149

8. A magistrate is not competent to punish receivers of stolen property in any case, the aggravating circumstances of which render the commitment of any of the prisoners to the sessions court necessary, but he should commit them. No. 857, 24th January 1834, ... II. 149

9. Receiving stolen property is a bailable offence, and the accused, if not charged with the original theft, should be allowed the option of giving bail. No. 1237, W. C. 19th July, C. C. 16th August 1839, ... III. 60

SUBSISTENCE MONEY OF CIVIL PRISONERS.

See "Civil Jails and Prisoners," Nos. 1, 2, 8 and 10.

SUBSISTENCE MONEY OF WITNESSES.

See "Witnesses," No. 11.

SUCCESSION, SUMMARY INTERFERENCE WITH.

See "Zillah and City Courts," Nos. 7, 10.

SUCCESSION TO THE ESTATES OF DECEASED PERSONS.

1. The complainant must appear in person to make the solemn declaration required by Section 3, Act XIX. 1841; such declaration cannot be made through an authorized agent. No. 1319, C. C. 11th February, W. C. 4th March 1842, III. 85

SUDDER AMEENS.

1. No stamps are required for pleadings or exhibits in appeal from decisions of moonsiffs referred for trial to sudder ameens. [*Obsolete, as sudder ameens cannot try such appeals*] No. 103, 21st May 1812, ... I. 27

2. No stamps are required for isminuveesees in original suits referred to sudder ameens. [*Superseded by Nos. 5 and* 11, *Schedule B, Regulation X. of* 1829.] No. 243, 15th March 1816, ... I. 81

3. The civil surgeon is considered eligible to the office of sudder ameen. No. 269, 26th March 1817, ... I. 95

4. Summary suits for rent are not referrible to sudder ameens. [*See Regulation VIII.* 1831.] No. 322, 4th August 1820, ... I. 132

5. The sudder ameen should decide suits between Mahomedans according to Mahomedan law, requiring a *futwa* from the law officer in cases of doubt. No. 424, 30th June 1826, ... I. 178

6. Sudder ameens executing decrees have no power to order the imprisonment of debtors or of persons resisting process of court without a reference to the judge, nor can they in such cases issue perwanehs to moonsiffs and other mofussil officers. [*But see Section* 7, *Regulation VII.* 1832, *and Section* 3, *Act VI.* 1843.] No. 451, 30th March 1827, I. 190

7. Sudder ameens investigating and trying cases referred to them by the magistrate under Section 4, Regulation III. 1821, have no authority to issue *perwanehs* to thanehdars, or other mofussil police officers. No. 451, 30th March 1827, ... I. 190

8. Parties in suits referred to sudder ameens should not be subjected to the expense of stampt paper, though the amount or value of the property in dispute should exceed 150 rupees. *(Superseded by Article* 8, *Schedule B, Regulation X.* 1829.*)* No. 463, 12th October 1827, ... I. 196

9. The provincial court are vested with the power of confirming the judge's nomination of a person to officiate as a sudder ameen. [*Superseded by Section* 13, *Regulation V.* 1831.] No. 514, 24th July 1829, ... I. 218

10. Sudder ameens and moonsiffs are not held to be native officers who are prohibited by Section 8, Regulation XIII. 1797, from interfering publicly or privately in suits or matters pending before the judge's court. No. 520, 21st August 1829, ... I. 221

11. Sudder ameens are to be guided, in regard to *tulubana*, by the rules for the guidance of the zillah and city judges previously to the enactment of Regulation V. 1831, viz. Clauses 4 to 7, Section 14, Regulation XXVI. 1814. No. 668, 13th January 1832, ... II. 31

12. After the period fixed for the operation of Regulation V. 1831, sudder ameens have no authority to try appeals from the decisions of moonsiffs. No. 676, 24th February 1832, ... II. 34

13. The Sudder Dewanny Adawlut cannot interfere with the decisions of the zillah and city judges in suits tried originally by the sudder ameens, though the judge's decision was passed before the period fixed for the operation of Regulation V. 1831. No. 688, W. C. 27th April, C. C. 18th May 1832,..... II. 41

14. A magistrate cannot refer suits under Regulation XV. 1824, [Act IV. of 1840,] to sudder ameens under Clause 6, Section 18, Regulation V. 1831, those provisions applying to cases of a strictly criminal nature. No. 689, W. C. 26th April, C. C. 18th May 1832, ... II. 41

15. Sudder ameens and moonsiffs are not prohibited from trying suits in which other sudder ameens or moonsiffs are parties. No. 692, 18th May 1832, ... II. 34

16. The processes of sudder ameens in criminal cases should be issued under their signature, but under the seal and through the officers of the magistrate. No. 741, C. C. 7th December 1832, W. C. 11th January 1833, ... II. 69

17 A suit in which the collector is a party cannot be referred to a sudder ameen. [*Superseded by Act XI.* 1836.] No. 801, W. C. 5th July, C. C. 2d August 1833, ... II. 109

18. Though suits for sums not exceeding 300 rupees, cognizable by moonsiffs, may, for special reasons, be referred to a sudder ameen, the general practice of doing so is objectionable. No. 833, W. C. 27th September, C. C. 18th October 1833, II. 130

19. When it may appear to the Sudder Dewanny Adawlut that a moonsiff or sudder ameen has tried a suit, which from its amount or other cause was not legally within his cognizance, and the zillah or city judge has decided an appeal therefrom on its merits, without adverting to this fact; the Court will admit a summary appeal, and, considering the original decision of the sudder ameen or moonsiff, and the decision of the zillah judge thereon, equally null and void, will quash all the proceedings in the case, and direct the judge to cause the original suit to be tried *de novo* by the authority competent to do so. [*This Construction has been superseded on the ground of the jurisdiction of the Court in such cases being*

barred by the positive rule in Clause 1, *Section* 28, *Regulation V.* 1831, *that the decisions of the zillah and city judges in appeal from the decisions of sudder ameens and moonsiff's shall be "final, any thing in the existing Regulations to the contrary notwithstanding"—and has been revoked by the Circular Order, Sudder Dewanny Adawlut, dated 26th September* 1842. *But by Act III.* 1843, *a special appeal now lies to the S. D. A.*] No. 1003, 18th March 1836,..... II. 249

20. When a judge has modified or confirmed the order of a sudder ameen imposing a fine, he may refer the order to that officer to carry it into execution. [*Section* 4, *Act VI.* 1843, *authorizes the sudder ameens to levy fines without reference to the judge.*] No. 1020, C. C. 1st July, W. C. 22d July 1836, ... II. 263

21. The law does not require that the judge should confirm all appointments by the native judges of the ministerial officers of their respective courts. The interference should be restricted to prevent the appointment of improper persons, and the dismissal without good and sufficient reason of those already appointed. No. 1160, W. C. 27th July, C. C. 17th August 1838, ... II. 18

22. A sudder ameen cannot appeal from the order of a magistrate in a case originally investigated by the former, the right of appeal possessed by the party dissatisfied being sufficient for the ends of justice. No. 1185, C. C. 19th November, W. C. 19th October 1838, ... III. 34

23. Sections 10 and 12, Regulation XXIII. 1814, though applicable to the principal sudder ameens, are not so to the *sudder ameens* and moonsiffs. [*Circular Order, 20th August* 1841, *declares these sections applicable to the courts of the sudder ameens.*] No 1226, W. C. 21st June, C. C. 2d August 1839,..... III. 56

24. The processes of principal sudder ameens and sudder ameens required to be enforced in another district, should be issued under their seal and signature as prescribed by Clause 4, Section 15, Regulation V. 1831, and, with reference to Clause 3, Section 2, Regulation II. 1806, be sent by the sudder ameen to the judge of the zillah or city court in which they are to be executed. No. 1235, W. C. 19th July, C. C. 9th August 1839, ... III. 59

SUDDER DEWANNY ADAWLUT.

1. A obtains a decree in the zillah court against B, who appeals to the provincial court. The judges of the latter court call for a *bewusteh*, and upon this *only* the decision of the zillah court is reversed. A appeals to the Sudder Dewanny Adawlut, where the *bewusteh* appears to be at variance with the *shasters* and inadmissible, but the evidence is esteemed sufficient to establish the right of B. On this evidence one judge of the Sudder Dewanny Adawlut proposed to confirm the reversal of the zillah decree, the *bewusteh* of the provincial court being rejected. Held, that the rejection by the sitting judge of the law opinion delivered in the court below, rendered it necessary that the case should be referred to another judge for his concurrence. No. 538, 29th January 1830, ... I. 228

2. The zillah judge, in executing a decree obtained by A against B, rejected the plea of the son of B that the decree had been satisfied, and ordered the sale of B's property. Held, that a single judge of the Sudder Dewanny Adawlut was competent, without calling for the proceedings, to annul the sale, and direct further evidence to be taken as to the truth of the statement of B's son. No. 804, W. C. 19th July, C. C. 16th August 1833, ... II. 110

No. 839, W. C. 11th October, C. C. 8th November 1833,..... II. 134

3. Petitions of special appeal from the decisions of the zillah and city judges pending undecided on the files of the provincial courts, at the time of their abolition, must be heard and disposed of by the Sudder Dewanny Adawlut No. 814, W. C. 23d August, C. C. 27th September 1833, ... II. 118

4. A single judge of the Sudder Dewanny Adawlut may reject a petition of special appeal transferred from one of the late provincial courts, although one judge of the latter court has recorded his opinion for the admission of the appeal. No. 845, W. C. 29th November, C. C 20th December 1833, ... II. 143

5. In appeals received from the late provincial courts, the same stamps are to be used as if the appeal had been instituted in the Sudder Dewanny Adawlut. No. 880, W. C. 11th April, C. C. 2d May 1834, ... II. 168

SUICIDE.

1. A Hindoo is liable to punishment for aiding and abetting in the suicide of a leper. No. 985, W. C. 30th October, C. C. 18th December 1835, ... II. 233

SUMMARY APPEALS.

See "Appeals, VIII." *passim.*
See "Dismissal on default," Nos 2, 4.
See "Dispossession or disputed possession, summary process in civil courts, in cases of," Nos. 2, 10, 15.
See "Nonsuit," No. 3.
See "Rent, summary suits and process for," Nos. 15, 19, 34.

SUMMARY DECREES.

See "Execution of Decrees, I." No. 5.
"Execution of Decrees, II." Nos. 1, 2, 3, 4.

See "Execution of Decrees, III." No. 10.
"Execution of Decrees, IV." No. 2.

SUMMARY SUITS AND PROCESS FOR RENT.

See "Rent, summary suits and process for."

SUMMARY SUITS REGARDING DISPOSSESSION.

See "Dispossession, suits for, in the civil courts," *passim.*
"Dispossession, suits for, in the criminal courts," *passim.*

SUPERINTENDENT OF POLICE.

1. The superintendents of police, in their capacity of magistrate, are equally subject to the control of the courts of circuit with other magistrates: and warrants and orders of the court of circuit may be issued to them in like manner as they are usually issued to the zillah and city magistrates. No. 82, 28th March 1811, ... I. 19

2. The superintendent of police is competent to pass sentence against any person, amenable to his jurisdiction, who may be convicted before him for resistance to the execution of a warrant or other legal process issued by him under Section 6, Regulation X. 1808: and also against all persons apprehended by and proved guilty before him, of any offence, punishable under the existing Regulations by the zillah and city magistrates: but in neither case can he apply to the magistrate to carry the sentence into effect. [*See Section 5, Regulation III. 1812, by which he may certify his sentence to the magistrate.*] No. 98, 12th March 1812,... ..... I. 26

3. The superintendent of police is authorized to make application to be furnished with a copy of the proceedings in trials by the courts of circuit, and it is incumbent on those courts to comply with such applications. No. 141, 20th January 1814, ... I. 42

4. The rule contained in Section 17, Regulation IX. 1793, and corresponding enactments, being applicable to the superintendents of police in their capacity of magistrates, the calendars prescribed should be submitted monthly by those officers to the court of circuit for the division to which it may properly belong to take cognizance of the case comprehended in those calendars, with reference to the district in which the prisoner has been apprehended. No. 143, 3d February 1814,..... I. 44

5. The superintendents of police may attend the court of circuit as public prosecutor in cases not committed by themselves: but in such cases their assistants or those of the magistrate may be appointed to manage the prosecution. The superintendent of police attending cannot interfere with the proceedings in any other capacity than that of public prosecutor. No. 279, 9th July 1817, ... I. 101

6. The commissioner in his capacity of superintendent of police has no authority to exercise any interference with the criminal jails,—the duty imposed upon the superintendent of police by Section 2, Regulation XVII 1816, of preparing and keeping up a register of jail establishments, not being intended to confer on him the power of interfering in any way with the internal management of the jail or the officers attached to it. No. 746, C. C. 28th December 1832, W. C. 8th February 1833, ... II. 72

7. Under peculiar circumstances however the court considered the commissioner authorized in interfering as superintendent of police in a case of riot in a jail. No. 909, W. C. 17th October, C. C. 14th November 1834,..... II. 186

8. As the magistrate's acts in the management of ferries are subject to the control of the superintendent of police, it is not competent to the session judge to receive appeals from the magistrate's orders in such cases. No. 1144, C. and W. C. 6th April 1838,..... III. 11

9. Escape of convicts should be reported to the superintendent of police, and measures for their apprehension taken by the magistrate in communication with that officer, who however cannot exercise any authority over the guards of prisoners effecting their escape. No. 1162, W. and C. C. 3d August 1838,..... III. 20

10. Though the superintendent of police can exercise no control over the jails, all correspondence relating to the strength and expense of the jail establishment should still be conducted through the office of the superintendent of police. No. 1197, C. C. 4th January, W. C. 18th January 1809, III. 43

SUPERINTENDENT OF POLICE IN THE GOVERNOR GENERAL'S CAMP.

See "Magistrate's orders, appeals from and revision of," No. 55.

SUPPLEMENTARY PLAINT OR PLEADING.

1. A person having inadvertently omitted in his petition of special appeal to state the grounds on which he appealed, may be allowed to supply the omission by a supplementary petition on the stamp prescribed by Section 17, Regulation I. 1814. No. 248, 8th May 1816,..... ..... I. 85

2. A suing B for possession of real property in virtue of a deed of sale in the moonsiff's court, the rights and interests of B in the property are sold by the collector in satisfaction of a decree to C *after* the institution but *before* the decision of the suit. Held, that it is competent to the moonsiff to receive an amended plea, including C among the defendants, such amended plea not being considered a supplemen-

tal plaint which a moonsiff is not competent to receive. No. 1308, W. C. 28th August, C. C. 17th September 1841, ... III. 82

3. A civil court authorized to admit supplemental pleadings may *allow* one supplemental plaint or answer to be filed on the application of the party wishing to do so; but has no authority to dictate to the parties and *order* one to be filed without such application. No. 1363, W. C. 24th August, C. C. 23d September 1842, ... III. 98

SUPPLY OF CARRIAGE FOR TROOPS AND TRAVELLERS.

See "Carriage, supply of, for Troops and Travellers."

SUPREME COURT.

See "Assistance, Writ of," Nos. 1, 2, 3.

SUTTEE.

1. Held, that a police darogha, on coming to the village after the suttee had been burnt, was not authorized to take parties into custody before he had made an enquiry to ascertain who had aided in the performance of it: he should merely have made the enquiry and reported the result to the magistrate. [*The practice of Suttee was declared illegal by Regulation XVII.* 1829.] No. 598, 29th July 1831,... I. 249

2. The Circular Order, Nizamut Adawlut, of 4th December 1829, is not to be understood as prohibiting the use of force in the event of an attempt to persist in performing the ceremony after due warning. [*See note to No.* 1.] No. 749, W. C. 4th January, C. C. 1st February 1833, ... II. 75

3. A person convicted of aiding and abetting in a *suttee* cannot be sentenced to labor in addition to imprisonment. [*Superseded by Circular Order, 30th October* 1840.] No. 1125, C. and W. C. 22d January 1838, ... III. 1

THANGEEDAREE.

See "Stolen Property," No. 7.

THEFT.

1. A magistrate may punish theft with six months' imprisonment and 30 ratans. [*Corporal punishment abolished and a period of imprisonment substituted for it by Section 2, Regulation II.* 1834.] If any objection exist to the infliction of ratans, and six months' imprisonment be not considered a sufficient punishment, the magistrate must commit to the court of circuit. [*The magistrate's powers have been enlarged by Regulation XII.* 1818.] No. 65, 16th August 1810,..... ..... I. 15

2. A magistrate cannot in cases of theft pass a sentence of imprisonment exceeding six months, unless the theft should have been attended by one of the six aggravating circumstances enumerated in Clause 4, Section 3, Regulation XII. 1818. No. 358, 7th November 1823,..... ..... I. 149

3. It is competent to a magistrate in a case of theft, by a servant, of his master's property, the amount or value of which may be above 50 rupees, but not exceed 300 rupees, and unattended with personal violence or other circumstance of aggravation, to sentence on conviction to 30 ratans, [*see note on No.* 1,] and imprisonment with hard labor for two years. No. 391, 10th June 1825, ... I. 163

4. A magistrate is not bound to dispose of a case of theft, but may commit the offenders to the court of circuit, should *any* peculiar circumstances in the case induce him to consider this course of proceeding preferable; but he should distinctly state, in his roobucaree of commitment, the circumstances which induced him to commit it; and when the magistrate has committed, it is not competent to the court of circuit to return the proceedings and instruct the magistrate to dispose of the case himself. No. 391, 10th June 1825, ... I. 163

5. On a *second* conviction of theft, [the amount or value of the property stolen in the *first* case being above 10, but not exceeding 300 rupees,] the magistrate is competent to punish, provided the value in the second case do not exceed 300 rupees. No. 419, 12th May 1826, ... I. 176

6. The magistrate was informed that he was competent to punish a female convicted of theft to the full punishment of two years, on the ground of her having been twice before convicted and appearing to be an incorrigible thief. No. 468, 8th February 1828,..... I. 198

7. The rule in Section 5, Regulation VI. 1824, which declares a petty theft not exceeding ten rupees, not to be an heinous offence, applies only to the question of commitment; and cannot be held to supersede that contained in Section 3, Regulation XII. 1818, which authorizes a magistrate to pass a sentence of two years' imprisonment on conviction of theft, where the offender may have been before convicted of the same offence, whatever be the amount taken in either case. No. 488, 24th October 1828, ... I. 207

8. Unaggravated cases of burglary and theft cannot be taken up by the police, unless the injured party desire it by a written petition. No. 708, W. C. 27th July, C. C. 24th August 1832, ... II. 53

9. A person being charged with stealing a *brahminee* bull, it was held that the fact of there being no ownership in any individual, did not affect the criminality of the person who was alleged to have taken the bull, which must depend altogether on the *animus* by which he was actuated. No. 803, C. C. 5th July 1833, ... II. 109

10. A sentence of imprisonment for one year in lieu of stripes, on a conviction of theft not exceeding 50 rupees, may be passed by a magistrate in addition to imprisonment for six months. No. 1183, C. C. 9th November, W. C. 12th October 1838, ... III. 33

11. In cases of burglary and theft unattended with personal violence, the suffering party is not bound to report the case to the police, unless he should be a zumeendar, and have to report the occurrence in that capacity. No. 1338, C. C. 13th May, W. C. 10th June 1842, ... III. 90

THIRD PARTY.

See "Execution of decrees, XI." Nos. 2, 4.
See "Rent, Summary Suits and Process for," Nos. 27, 45.

THUGGEE.

1. Act XXX. 1836, does not authorize a session judge to dispense with a futwa on the trial of a prisoner charged with a specific act of murder and thuggee, unless the prisoner be tried under Regulation VI. 1832, with jurors or assessors. No. 1074, C. C. 10th February, W. C. 27th January 1837, ... II. 298

See "Jurisdiction of Criminal Courts," No. 7.

TRANSFER OF PROPERTY.

See "Police Officers," No. 9.

TRANSLATIONS.

See "Records," No. 3.

TRAVELLERS.

See "Carriage, supply of, for Troops and Travellers," *passim.*

TRESPASS OF CATTLE.

See "Police Officers," No. 14.

TRIALS, CONDUCT OF.

See "Conduct of Trials," *passim.*

TRIALS POSTPONED.

See "Postponed Trials," *passim.*

TROOPS.

See "Carriage, supply of, for Troops and Travellers," *passim.*

TULUBANA.

See "Peons," Nos. 1, 4, 6.

TUSHEER.

1. *Tusheer* cannot be awarded by the court of circuit under Clause 7, Section 2, Regulation LIII. 1803. No. 104, 24th June 1812, ... I. 28

2. There is no rule for exempting from *tusheer* a female convicted of perjury. No. 506, 8th May 1829, ... I. 215

UNSIGNED ROOBUCAREES.

1. A magistrate having, on leaving the station on sick certificate, left certain *roobucarees* unsigned, the acting magistrate was directed to sign the roobucarees, the orders of which might be recorded in the magistrate's English note book in his hand writing, certifying thereon that he had compared them with the note book. In cases in which no note was recorded, the acting magistrate was directed to pass such order as might, on inspection of the proceedings, appear just and proper, leaving the party dissatisfied with it to appeal in the regular course. No. 729, 2d November 1832, ... II. 62

2. A deceased judge having left a decision unsigned, his successor was directed to examine the vakeels of the parties in whose presence the decision was given, and the person who wrote it out, and compare it with any note book in the handwriting of the late judge which might be forthcoming; and, unless the result of the enquiry should lead him to doubt the genuineness of the decision, to sign it, making a short memorandum explaining why it was signed by him. No. 910, 17th October 1834,..... II. 186

VACATIONS.

See "Dismissal on Default," No. 18.
See "Dispossession or disputed possession, summary process of the civil courts in cases of," No. 12.
See "Moonsiffs, VI." No. 6.

VILLAGE ACCOUNTS.

1. On the institution of a suit for rent before a judicial officer, proof must be required that the plaintiff has conformed to the rules laid down in Sections 14 and 15, Regulation IX. 1833; the nature of the proof will of course be such as the plaintiff is able to adduce. No. 884, W. C. 16th May, C. C. 13th June 1834, ... II. 170

VUKALUTNAMEH.

See "Moonsiffs, III." No. 11.
See "Pleaders," Nos. 3, 9, 13, 23.

WAGES.

See "Workmen and Servants."

WARDS, COURT OF.

See "Government and its Officers, suits against," No. 1.
See "Guardians and Minors," Nos. 2, 5.
See "Leases," No. 2.

WARRANTS.

1. Warrants should be addressed to the chief magisterial authority of the district, whether he be denominated magistrate as in the case of Chittagong, or joint magistrate as in the case of Noacolly. No. 847, 13th December 1833,..... II. 143

WATCHMEN.

See "Neglect of Duty," Nos. 1, 2, 9.

WEIGHTS.

1. Magistrates may punish as a fraud, under the general regulations, the offence of using short weights, but cannot prescribe a current standard of weights. No. 1274, W. C. 28th February, C. C. 27th March 1840,..... III. 71

WESTERN COURT.

See "Nizamut Adawlut," Nos. 8, 10, 11.

WITNESSES.

1. A magistrate is competent to compel the attendance of any witness, whose evidence may be required, although such witness was not named on oath by the prosecutor or other person as acquainted with the circumstances of the case. No. 78, 14th February 1811,..... I. 18

2. The rule laid down in Construction 79 is superseded by Construction 457. No. 79, 28th February 1811, ... I. 18

3. The vakeels of the civil court may be required to witness confessions: and the police daroghas may summon respectable persons to witness confessions made before them. No. 101, 23d April 1812, I. 26

4. A witness who has been fined for refusal to take an oath cannot, after discharging the fine, be admitted to give evidence on solemn declaration, unless the judge, who imposed the fine, see reason to change his opinion that the prisoner was not, in the first instance, a fit object of exemption from taking an oath, in which case the fine may be remitted, and the witness admitted to give his evidence on a *hulufnameh*. No. 110, 3d September 1812, ... I. 29

5. No limitation is fixed for the confinement which the court may award in commutation of fines adjudged in cases of refusal to make oath, &c. The court must exercise its discretion according to the circumstances of each case. A witness fined for refusing to swear is to be discharged on paying the fine, if the suit in which his evidence was required have been decided; or kept in confinement, whether he have paid the fine or not, if the suit be still pending, until he consent to give his evidence on oath as required. No. 110, 3d September 1812,..... I. 29

6. The provision in Section 6, Regulation IV. 1793, (Section 2, Regulation VIII. 1795, and Section 7, Regulation III. 1803,) requires proof on oath [not the prosecutor's oath exclusively] that the evidence of the witness is material to the cause, before an order can be issued for his apprehension. It is only applicable to the case of a witness duly summoned and not attending. In the case of a witness attending and refusing to give evidence, or, after having given evidence, refusing to sign his deposition, no new proof need be called for that his evidence is material. No. 159, 19th May 1814, ... I. 49

7. A witness duly summoned and failing to attend is liable to personal arrest and a fine not exceeding 500 rupees. No. 172, 27th July 1814, ... I. 53
No. 487, 12th September 1828,.....I. 207

8. When a witness duly summoned has evaded the warrant issued for the seizure of his person, a proclamation should be issued requiring his attendance within a certain period; and if he fail to attend within that period, the judge should impose a fine not exceeding 500 rupees, and proceed to levy the same by attachment and sale of his property. No. 172, 27th July 1814, ... I. 53

9. When the summons has not been personally served on a witness, he cannot be proceeded against either by fine, or the issue of a warrant for his seizure. No. 172, 27th July 1814,..... I. 53
No. 465, 7th December 1827, ... I. 197
No. 487, 12th September 1828, ... I. 207

10. The deposition of witnesses should be taken down in the language and character in which the person examined may wish to have it recorded: when the deponent may not avail himself of the option, it should be recorded in Persian. [*The substitution of the vernacular languages for the Persian, renders the Construction inoperative.*] No. 204, 18th May 1815, ... I. 64

11. The subsistence money of the witnesses in petty criminal cases need not be lodged until the prosecutor is desirous of taking out process to procure their attendance; and the witnesses should not be summoned, until the magistrate or his assistant is prepared to take up the case. No. 221, 8th September 1815, ... I. 72

12. Construction 389, which declares that a magistrate cannot enter into any evidence for the defence of a prisoner in a case committable to the

court of circuit, has been superseded by Regulation VIII. 1830. No. 389, 3d June 1825, ... I. 160

13. A magistrate is not competent under Regulation IV. 1820, to confine a person for refusing to be sworn as a witness before a court martial, sent to him for that purpose by the military authorities. [*Superseded by Section* 6, *Act XI.* 1841.] No. 401, 18th August 1825, ... I. 168

14. Construction 79 is not to be abided by. A witness refusing to give evidence should be dealt with according to the rule contained in Section 2, Regulation L. 1803, as detailed in Constructions 110. [See Nos. 4 and 5 of this Article.] No. 457, 31st August 1827, ... I. 192

15. The evidence of a single witness, if believed, is sufficient for the conviction of a prisoner. No. 634, 6th May 1831, ... II. 8

16. The evidence of witnesses for the prosecution in a criminal trial cannot be taken in the absence of the accused. No. 658, 16th September 1831, II. 27

17. The attachment by a magistrate of the lands of a non-attending witness upon whom a subpœna has not been served, is illegal. No. 698, 8th June 1832, ... II. 45

18. The fact of a witness being afflicted with leprosy does not bar his evidence in our courts of justice. No. 726, 26th October 1832, ... II. 60

19. A person who gives a bribe cannot be compelled to give evidence on oath touching the bribe alleged to have been administered by him, as he would himself be liable to a criminal prosecution for giving it. No. 757, 28th February 1833, ... II. 82

20. Other evidence than that of the serving peon is necessary to prove the service of a moonsiff's process, to enable the moonsiff to try the case *exparte*. No. 775, 4th April 1833, ... II. 90

21. A magistrate cannot try a case of bribery against a salt darogha, on evidence taken before himself in his capacity of salt agent. No. 817, 23d August 1833, ... II. 119

22. The deposition of an European witness must be recorded in English, and a translation of it in Persian [now in the vernacular] language annexed thereto. No. 1035, C. and W. C. 27th January 1837, ... II. 273

23. The statement made by a prisoner on oath under a conditional pardon tendered to him under the provisions of Regulation X. 1824, as modified by Section 7, Regulation I. 1829, cannot be received as evidence against him, in the event of his being committed for trial for the original offence, under the orders of the session judge, on the ground of his having failed to fulfil the conditions under which the pardon was tendered to him. No. 1041, C. C. 5th August, W. C. 16th September 1838, ... II. 277

24. Under the provisions of Act XIX. 1837, the conviction of a person for a criminal offence cannot be considered as constituting a bar to his giving evidence against his supposed accomplices in the same offence; it resting of course with the presiding officer, as in all other cases, to judge of the credibility of such testimony, or in other words to receive it *quantum valeat*. No. 1117, W. C. 8th December 1837, C. C. 3d January 1838, ... II. 330

No. 1173, C. C. 14th September, W. C. 24th August 1838, ... III. 28

25. The zillah judge having struck a case off the file because the witnesses of the plaintiff, who had been duly summoned, failed to attend, the Courts of Sudder Dewanny Adawlut held that it was incumbent on the judge, under the spirit of Section 6, Regulation IV. 1793, to call on the plaintiff's counsel to satisfy him by evidence on oath that the evidence of those witnesses was material to the cause, before he proceeded to strike the case off the file. No. 1126, C. and W. C. 26th January 1838, ... III. 2

26. A prisoner admitted as an approver or evidence against his accomplices, should be examined by the magistrate *de novo*, instead of being merely sworn to the truth of the statement made by him in the character of a defendant. No. 1137, C. C. 9th March, W. C. 24th March 1838, ... III. 8

27. The evidence of the mother of an illegitimate child against the alleged father is *prima facie* good as far as it goes; but should be sifted and weighed as any other testimony, and tested as far as practicable by any circumstantial evidence that may offer. The result must depend on the belief or otherwise reposed in it by the magistrate. No. 1163, C. C. 3d August, W. C. 13th July 1838, ... III. 20

28. A prisoner on trial before the session court having objected to examine his own witness, alleging that he had been tampered with by the prosecutor, it was held to be exceptionable in the session judge to examine him against the prisoner. No. 1203, C. C. 15th March, W. C. 30th March 1839, ... III. 44

WIVES.

See "Maintenance of Wives and Children," *passim*.

WORKMEN.

1. The rules contained in Clause 3, Section 6, Regulation VII. 1819, is not applicable to European British subjects; consequently a magistrate [even though a justice of the peace] cannot compel an European British subject to pay the wages of a servant. No. 340, 25th May 1821, ... I. 139

2. Yet the magistrate may, at the suit of an European British subject, proceed against native servants or workmen quitting their employment, &c. No. 345, 20th July 1821, ... I. 142

3. The sentence of two months' imprisonment in case of workmen neglecting to finish their work is intended as a punishment for wilful neglect to perform the work undertaken, and not as a means for compelling the performance of it: consequently the magis-

trate is not competent to repeat the punishment of two months' imprisonment, or to take any further measure towards compelling the actual performance of the work engaged for. No. 384, 29th April 1825,... I. 159

4. The complaints of *beoparees* for arrears of wages while in the employ of Government, are not cognizable by the magistrate. They should be referred to the civil court for the adjustment of their claims for the hire of their hackeries and bullocks. No. 560, 11th June 1830, ... I. 235

5. A complaint for the recovery of wages should be made immediately on the occurrence of the cause of complaint. A case therefore in which nearly two years and a half had elapsed was not considered cognizable by the magistrate. No. 582, 7th January 1831, ... I. 244

6. The complaint in such cases must be preferred on oath as all other complaints in a criminal court. No. 582, 7th January 1831,..... I. 244

7. A magistrate cannot compel the payment of the wages of a mokhtar under Section 6, Regulation VII. 1819, those provisions applying only to workmen and domestic servants. No. 770, C. C. 15th March, W. C. 12th April 1833,..... ..... II. 88

8. The provisions of Regulation VII. 1819 do not limit the sum which may be recovered as wages in a criminal court, and the servant may sue to recover wages for any period not exceeding one year. No. 913, C. C. 31st October, W. C. 28th November 1834, ... II. 188

9. The *mohurrir* or *gomashteh* of an indigo planter superintending an out-factory, cannot be considered as a domestic servant or workman: consequently a magistrate is not competent to apprehend and compel to return to his duty such a person, who may have absconded from his employment. No. 924, C. C. 26th December 1834, W. C. 23d January 1835, ... II. 195

10. When a party against whom an award of wages to domestics may be given, does not immediately pay the same, the magistrate should proceed to levy the amount by distress and sale of the defendant's personal property. No. 1053, C. C. 14th October, W. C. 4th November 1836, ... II. 285

11. A contract between A and B on the security of C and D to furnish a boat to convey certain goods of A to a certain place on the river, is not cognizable by the magistrate; the contract being of a civil nature, and security being taken for the performance of it. The person aggrieved must therefore seek his remedy in the civil court. No. 1085, W. C. 14th April, C. C. 3d May 1837,..... II. 305

12. The summary award of the criminal authorities under Section 6, Regulation VII. 1819, is not subsidiary to a suit in the civil court. The civil court has therefore no power to issue an injunction to a magistrate for the purpose of stopping the execution of his order. No. 1158, C. C. 13th July, W. C. 22d June 1838,..... III. 88

13. There must be a stipulated term of service or a contract for the performance of a specific work to render Section 5, Regulation VII. 1819, applicable to the case of mistrees, moochees, and other artisans receiving advances and refusing to work. Such cases may be prosecuted either in the district in which the agreement was executed, or in that in which the defendant resides. No. 1329, C. C. 18th March, W. C. 27th May 1842, ... III. 87

WOUNDED PERSONS.

See " Commitment," No 5.

WRIT OF ASSISTANCE.

See " Assistance, Writ of."

WUQF.

1. Wuqf property cannot be alienated or divested from the purposes for which such property was intended. No. 1166, C. C. 17th August, W. C. 20th July 1838, ... III. 24

ZILLAH AND CITY COURTS.

1. The duties in regard to the submission of appeals to the Sudder Dewanny Adawlut, heretofore performed by the provincial courts, should, after the extension of Regulation V. 1831 to the district, be performed by the zillah or city judge. No. 681, 9th March 1832, ... II. 37

2. There is no objection to a judge pointing out officially to a party in a suit the proper mode to be followed, when he sees occasion to do so. [*But see the Circular Order of the 13th September* 1843.] No. 705, 20th July 1832, ... II. 49

3. A judge may decide a lakheraje suit upon which he has himself reported under Section 30, Regulation II. 1819, as a collector. No. 779, C. C. 12th April, W. C. 10th May 1833, ... II. 93

4. The order of a zillah judge dismissing a vakeel of a moonsiff's court is final and not open to appeal to the Sudder Dewanny Adawlut. No. 846, C. C. 6th December, W. C. 27th December 1833, ... II. 142

5. A zillah judge is not positively required to attest an English power of attorney to be exhibited in the Supreme Court, and is authorized to decline, if his doing so would entail the necessity of his attendance before that Court to verify his signature, and thus cause interruption in the discharge of his regular duty. No. 960, C. & W. C. 19th June 1835, ... II. 218

6. Though Clause 7, Section 45, Regulation XXIII. 1814, is applicable only to the case of debtors confined in execution of decrees, a judge may exercise his discretion in releasing a prisoner confined under the orders of a civil court until he pay a fine imposed upon him. No. 964, W. C. 10th July, C. C. 31st July 1835, ... II. 220

7. The civil courts have no power of summary interference with succession to landed property, except on emergent occasions. [*This summary interference has been authorized by Acts XIX. and XX.* 1841.] No. 1008, W. C. 19th May, C. C. 17th June 1836, ... II. 252

8. The judge cannot issue an injunction to a magistrate to stop execution of his summary award of wages, such orders not being subsidiary to a civil suit. No. 1158, C. C. 13th July, W. C. 22d June 1838, ... III. 17

9. A civil judge cannot call upon a magistrate to enforce his orders if resisted. No. 1209, C. C. 12th August, W. C. 3d May 1839, ... III. 49

10. The civil courts cannot interfere with the estate of a lunatic consisting only of personal property. No. 1311, W. C. 15th October, C. C. 5th November 1841, ... III. 83

ZUMEENDARS.

1. Section 2, Regulation XXVII. 1795, is applicable in bar of claims preferred by *zumeendars* under Clause 6, Section 3, Regulation I. 1795, for the recovery of their estates from farmers, if the refusal of the *zumeendar* to pay the assessment required of them be established: but the case of actual refusal only being provided for by Section 2, Regulation XXVII. 1795, it cannot be pleaded in any other case; and if the plea be offered by a farmer to prevent a zumeendar being put in possession of his estate under Clause 6, Section 3, Regulation I. 1795, the proof of the plea must be on the farmer. No 29, 30th May 1807, ... I. 8

2. A zumeendar may oust a defaulting farmer from his farm at the end of the year for which an arrear of rent may be due, if he shall not discharge the same on demand: and this without application to the courts of justice, provided no violence be used, so as to bring the case within the provisions of Regulation XLIX. 1793. [*See Section* 18, *Regulation VIII.* 1819.] No. 42, 17th September 1808,... I. 10

3. The estates of persons who obtained decrees establishing their proprietory right in *malgoozaree* lands, but who are excluded from possession of their estates by the operation of Clause 3, Section 53, Regulation XXVII. 1803, are not liable to be disposed of at public sale in liquidation of arrears of public revenue, the general principle of Clause 1, Section 14, Regulation IV. 1803, not being applicable to persons standing in the predicament prescribed. No. 93, 26th September 1811, ... I. 23

4. The Court expressed their inability to define exactly and generally what degree of power it was intended, by the use of the term "compulsion" in the regulation, [*Section* 15, *Regulation VII.* 1799,] to confer on the landlords in enforcing the attendance of their tenants. The magistrate was directed, in the event of a complaint being preferred of the abuse of that power, to decide from the evidence whether any unnecessary or unauthorized degree of severity had been exercised or not, his decision being of course open to revision by the court of circuit. No. 382, 22d April 1825, ... I. 158

5. In reply to a question whether landholders in the district of Benares are liable to fine by the magistrate in cases of theft of property at night within their villages, the magistrate was informed that they are only liable to fine when they willingly neglect to apprehend, and deliver over to the police officers, persons whom the village chowkeydars are required to apprehend by Section 14, Regulation XVII. 1795, or when they make any other default of the nature described. No. 422, 23d June 1826, ... I. 177

6. In the case of alleged negligence in apprehending an offender on the part of the proprietor of a village, the provisions of Regulation XXXV. 1803, are applicable, although no charge had been preferred by a private prosecutor: the magistrate being competent to proceed against the zumeendar for such neglect, whatever may be the means by which he has acquired the information to criminate him. No. 889, C. C. 4th July, W. C. 1st August 1834, ... II. 176

7 *Zumeendars* cannot be prohibited from levying *choongee* in markets held within the precincts of their estates. [*See the Construction itself which was given on a reference from the Joint Magistrate of Shajehanpore in the N. Western Provinces.*] No. 973, W. C. 7th August, C. C. 25th September 1835,..... II. 224

8. The fine leviable under Section 21, Regulation XII. 1807, on a zumeendar for neglect in furnishing lists of the village watchmen on the estate, is commutable, if not paid, to imprisonment. No. 1150, C. C. 27th April, W. C. 11th May 1838,..... III. 14

9. If the zumeendar be an absentee, the actual manager of the estate is the responsible person, and should be proceeded against in default of compliance with the requisitions of Section 21, Regulation XII. 1807. No. 1150, C. C. 27th April, W. C. 11th May 1838,..... III. 14

10. A magistrate is not authorized to call upon a zumeendar to provide a building for the residence of such police officers as may be stationed on his estate under Section 8, Regulation XVII 1816. The appeal from the magistrate's order in such a case lies to the session judge. No. 1247, C. C. 6th September, W. C. 27th September 1839,..... . III. 64

11. With reference to a remark of a session judge, that chowkeydars are to be considered in the light of the zumeendar's servants, his attention was called to Clause 2, Section 21, Regulation XX. 1817, which declares the village watchmen to be subject to the orders of the police darogha. No. 1281, C. and W. C. 17th July 1840, ... III. 75

12. The zumeendars themselves are obliged under certain prescribed penalties to give information

of dacoitees, murders, and other crimes committed within their estates, which may come to their knowledge—it is not sufficient that the same information is received from the chowkeydars. This information should generally be in writing; but if the zumeendar has any secret information to give, he may wait on the magistrate personally for the purpose, and it is optional to send a servant to the magistrate or the darogha if he see fit. No. 1281, C. and W. C. 17th July 1840, ... III. 75

13. No private engagement between a zumeendar and another person, can absolve the former from the performance of such acts as he is bound by the regulations of Government to perform. No. 1298, C. C. 28th May, W. C. 22d June 1841,..... III. 79

FINIS.

Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

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——	——	5	——	359.		
——	——	9	——	15, 277, ...	830.	
——	——	10	——	277, ...	830.	
——	——	12	——	131, 277, 339,.....	830.	
——	XXXV.	3	3	422.		
——	——	——	4	.....	889.	
——	——	10	——	160.		
——	——	16	——	271.		
——	——	26	——	.....	851.	
——	XXXVII.	3	5	267.		
——	——	——	7	240.		
——	XL.	——	——	32.		
——	——	30	——	43.		
——	XLIII.	3	——	186.		
——	——	20	——	156.		
——	XLVI.	——	——	14, 436, ...	707.	
——	XLIX.	2	——	7.		
——	——	——	7	13.		
——	——	3	——	7.		
——	——	6	2	87.		
——	——	24	——	109.		
——	——	——	1	100.		
——	L.	1	——	78.		
——	——	2	——	457.		
——	——	——	1	78, ...	698.	
——	——	——	2	110, 457.		
——	——	——	3	110.		
——	LII.	——	——	335.		
——	——	5	3	142.		
——	LIII.	——	——	558.		
——	——	2	——	.....	1002.	
——	——	——	2	79, 270.		
——	——	——	6	236.		
——	——	——	7	104, 353,.....	755.	
——	——	3	1	228, ...	750.	
——	——	4	4	.....	750.	
——	——	5	2	287.		
——	——	6	2	484.		
——	——	7	2	236.		
——	——	8	5	.....	643.	
——	——	9	——	47.		
——	——	——	1	161.		
——	——	11	——	173.		
1804	III.	2	2	.....	625.	
——	——	2 & 3	——	.....	.....	1124.
——	——	4	——	.....	619, ...	1124.
——	——	——	4	414.		
——	——	——	5	414.		
——	V.	——	——	31.		
——	——	10	——	49.		
1805	II.	——	——	432, 478.		
——	——	2	——	.....	942, ...	1348.

Year.	Reg.	Sec.	Cl.	NUMBER OF CONSTRUCTIONS. Vol. I.	Vol. II.	Vol. III.
1805	II.	3		.....	942.	
——	——	——	4	.....	963.	
——	——	4	——	565.		
——	——	——	1	27, 316, 467.		
——	——	6	——	316.		
——	——	10	——	551.		
——	——	13	——	191.		
——	——	14	2	36.		
——	——	——	3	19, 305.		
——	VII.	29	8	.....	651.	
——	——	——	9	.....	651.	
——	——	——	10	.....	651.	
——	——	——	11	.....	651.	
——	——	——	12	.....	651.	
——	——	——	13	.....	651.	
——	——	——	14	.....	651.	
——	VIII.	14	3	147.		
——	——	29	8	310, 398, 596,.....	637, 654, 663, 666, 682, 720.	
——	——	——	9	310, 596,.....	637, 654, 663, 666, 682, 720.	
——	——	——	10	310, 596,.....	637, 654, 663, 666, 682, 720.	
——	——	——	11	310, 596,.....	637, 654, 663, 666, 682, 720.	
——	——	——	12	310, 596,.....	637, 654, 663, 666, 682, 720.	
——	——	——	13	142, 310, 596,.....	637, 654, 663, 666, 682, 720.	
——	——	——	14	310, 596,.....	637, 654, 663, 666, 682, 720.	
——	IX.	23	——	29.		
——	XII.	12	——	25.		
——	XIV.	6	——	59, 122.		
——	XVII.	2	——	142.		
1806	II.	2	——	30, 512, ...	721, 854.	
——	——	——	3	.....	.....	1235.
——	——	3	——	375, 406,.....	854.	
——	——	4	——	.....	745, 888, 963.	
——	——	5	——	190, 588,.....	665, 745, 916.	
——	——	8	——	.....	1024.	
——	——	10	——	44, 569, ...	752.	
——	——	11	——	24, 60, 86, 95, 110, 177, 302, 308, 309, 319, 328, 372,...	784, 1062, 1086, 1108,	1196.
——	——	12	——	21.		
——	X.	10	——	.....	731.	
——	XI.	——	——	314.		
——	——	3	——	.....	1049.	
——	——	8	——	.....	.....	1188.
——	——	14	——	40.		
——	XV.	6	——	.....	983.	
——	XVII.	——	——	131, 370,.....	672.	
——	——	7	——	277,.....	974.	
——	——	8	——	80, 105, 131, 263, ...	630, 644, 898,.....	1140, 1179.
1807	I.	4	2	308.		
——	——	7	——	280.		
——	II.	——	——	195, 233,.....	656.	
——	——	3	——	52.		

Year.	Reg.	Sec.	Cl.	NUMBER OF CONSTRUCTIONS. Vol. I.	Vol. II.	Vol. III.
1807	II.	3	1		638.	
—	—	4	3		1099.	
—	—	—	4		627.	
—	IX.	—	—	603.		
—	—	3	—	404,	620, 831.	
—	—	4	—	512,	642, 1100.	
—	—	5	—		642.	
—	—	6	—	295, 512,	642.	
—	—	9	1	617.		
—	—	—	2	111.		
—	—	17	—	101, 189.		
—	—	19	—	65, 79, 85, 94, 206, 237, 244, 259, 388, 423, 459, 610,	664, 774,	1156.
—	—	20	—	191, 516, 595,	686.	
—	—	21	—	612,	722.	
—	—	22	—	235, 357,	1104,	1169.
—	—	23	—	114, 120, 167, 283, 340, 382, 489,	625, 657, 730.	
—	XII.	21	—			1150.
—	XIV.	8	—	49.		
—	—	20	—	422.		
1808	IX.	3	—	117, 127.		
—	—	5	—	435.		
—	—	13	—	485,	889.	
—	—	14	—	46, 118,	889.	
—	X.	—	—	82, 279.		
—	—	6	—	98,	746.	
—	—	7	—	141,	746.	
—	XIII.	—	—	72.		
—	—	2	—	69.		
—	—	3	—	227.		
—	—	11	—	198, 331.		
—	—	—	2	90, 536,	1077.	
—	—	—	3		646.	
—	—	12	—	106, 272, 284.		
—	—	13	—		1014.	
1809	V.	—	—		703, 926.	
—	VII.	7	—	188.		
—	VIII.	—	—	62.		
—	—	3	—	306.		
—	—	5	—	49, 88, 91, 306.		
—	—	—	2	578,	618.	
—	—	—	5	192, 244.		
—	—	7	—	51, 344.		
—	—	—	2		618.	
—	—	9	—	49,	940.	
—	—	11	—	50.		
—	IX.	9	—	168.		
1810	VI.	3	—		889.	
—	—	4	—	63,	889.	
—	—	5	—	63.		
—	VIII.	—	—	82, 279.		
—	IX.	31	—	84.		
—	—	38	—	205, 476.		
—	—	39	—	76, 205,	973.	
—	XIII.	2	3	83, 90.		
—	—	—	4	70, 497,	779.	
—	—	4	2	280.		
—	—	—	3	262.		

Year.	Reg.	Sec.	Cl.	NUMBER OF CONSTRUCTIONS. Vol. I.	Vol. II.	Vol. III.
1810	XIII.	4	4	66, 74.		
——	——	6	3	538.		
——	——	9	3	68.		
——	——	11	——	164, ...	977.	
——	——	——	1	208.		
——	XIV.	3	——	350.		
——	——	4	——	350.		
——	——	5	——	152.		
——	XVI.	9	——	.....	858.	
——	——	11	——	210, 232.		
——	——	16	——	229.		
——	——	18	——	229.		
——	XIX.	——	——	.....	.....	1166.
——	XX.	——	——	.....	1119.	
——	——	15	——	392.		
——	——	16	——	392.		
——	——	17	——	392.		
——	——	18	——	.....	760, 1044.	
——	——	22	——	498.		
1811	I.	——	——	287.		
——	——	2	2	144.		
——	——	3	1	299.		
——	——	——	2	299.		
——	——	——	3	144, 218, 219.		
——	——	5	——	484.		
——	——	7	——	133, 217.		
——	——	8	——	133.		
——	——	9	1	89.		
——	——	——	2	89.		
——	VII.	2	3	149.		
——	——	3	——	....	....	1199, 1365.
——	——	5	——	94, 233, 459, 528, 530, 610, ...	.....	1189, 1208, 1220.
——	X.	——	——	99.		
1812	I.	22	——	317.		
——	III.	2	——	221.		
——	——	4	——	....	889.	
——	——	6	——	151, 193.		
——	——	9	3, 4 & 5	.....	.....	1352.
——	IV.	——	——	377.		
——	V.	——	——	574, 581, 591.		
——	——	9	——	234, 255, 257.		
——	——	10	——	234, 255, 257.		
——	——	14	——	.....	962.	
——	——	15	——	234, 255, 348, 421, 503.		
——	——	16	——	.....	.....	1255.
——	——	17	——	327, 467.		
——	——	20	——	467.		
——	——	21	——	108, 112, 116, 126, 165, 166, 203.		
——	——	26	——	115, 142, 449,.....	717.	
——	——	27	——	449.		
——	XVI.	——	——	.....	932.	
——	XX.	——	——	.....	905.	
——	——	2	——	119, ...	....	1218.
——	——	7	——	.....	732, 812.	
——	——	10	——	.....	732.	
1813	II.	——	——	543.		
——	——	2	——	....	903, ...	1200.

Year.	Reg.	Sec.	Cl.	NUMBER OF CONSTRUCTIONS. Vol. I.	Vol. II.	Vol. III.
1813	VI.	——	——	286, 368, 472, 475,	875.	
——	——	2	——	253,		1153.
——	——	3	——	571,		1153, 1342.
——	——	——	2	225.		
——	——	5	——	140, 281.		
——	——	——	1	167, 191, 311, 444.		
——	——	——	3	213, 414.		
——	VIII.	——	——		703.	
——	X.	——	——	32.		
——	——	22	——	252.		
——	——	32	——			1345.
——	XIII.	7	——	215.		
——	——	16	——	215.		
1814	I.	——	——	156, 164, 169.		
——	——	2	——	187.		
——	——	9	——	292, 312, 324, 325, 392, 412.		
——	——	11	——	154, 185, 187, 207, 274, 275, 312, 324, 325, 341, 409, 412, 431.		
——	——	12	——	321.		
——	——	13	——	163, 180, 187.		
——	——	14	——	180, 187, 274.		
——	——	——	1	462.		
——	——	——	4	181.		
——	——	15	——	145, 146, 179, 183, 187, 223, 242, 243, 289.		
——	——	16	——	145, 182, 183, 187, 223, 242, 243.		
——	——	17	——	170, 183, 187, 202, 223, 242, 243.		
——	——	18	——	183, 188, 243, 247, 261.		
——	——	19	——	171, 178, 183, 184, 207, 243, 412.		
——	II.	——	——		1116.	
——	——	3	1	410.		
——	VIII.	——	——		889.	
——	XI.	——	——	287.		
——	——	2	2	299.		
——	——	——	3	299.		
——	——	——	4	218, 299.		
——	——	——	5	299.		
——	XII.	——	——		788, 827.	
——	XV.	——	——	307.		
——	——	2	1	360.		
——	——	——	3		1011.	
——	XXIII.	——	——	250, 322, 481.		
——	——	8	2	514.		
——	——	9	——		667.	
——	——	10	——	64.		
——	——	——	2		781, 1069.	
——	——	13	——	196, 332,		1373.
——	——	——	1	219, 452, 480.		
——	——	——	2	219,		1373.
——	——	——	3	219.		
——	——	15	3		846.	
——	——	——	4		990.	
——	——	19	——	400.		
——	——	21	2		775.	
——	——	22	3		775.	

Year.	Reg.	Sec.	Cl.	NUMBER OF CONSTRUCTIONS. Vol. I.	Vol. II.	Vol. III.
1814	XXIII.	23	———	.....	701, 772.	
——	——	25	4	276.		
——	——	27	———	.....	859.	
——	——	——	1	....	870, ...	1321.
——	——	——	2	.....	870, 872, ...	1228.
——	——	29	———	400.		
——	——	31	———	.....	701.	
——	——	40	———	.....	966.	
——	——	42	———	.....	701, 966.	
——	——	45	———	239.		
——	——	——	4	284.		
——	——	——	6	284, ...	979.	
——	——	——	7	302, 308, 328, 569, ...	964.	
——	——	46	———	477.		
——	——	——	5	284, 472.		
——	——	47	———	.....	833.	
——	——	49	2	212, 260.		
——	——	52	———	509, 587, ...	714, 824, 861.	
——	——	54	———	.....	714.	
——	——	59	———	.....	861.	
——	——	63	———	514.		
——	——	64	———	269.		
——	——	68	———	219.		
——	——	72	———	.....	802.	
——	——	73	———	239, 477.		
——	——	74	———	.....	1020.	
——	——	75	3	223.		
——	——	76	———	.....	761.	
——	——	——	1	.....	815.	
——	——	——	2	....	815.	
——	——	——	3	.....	815.	
——	——	——	4	... .	815.	
——	——	——	6	.....	815.	
——	XXIV.	——	———	322.		
——	——	6	2	273.		
——	——	8	———	251.		
——	——	——	2	242.		
——	——	——	7	245.		
——	——	9	———	251, 268.		
——	——	——	4	223.		
——	——	——	6	223, 356.		
——	——	10	———	251.		
——	——	11	———	251.		
——	——	12	———	251, 268, 285.		
——	——	——	3	194.		
——	XXV.	3	———	227.		
——	——	5	———	227, 245.		
——	——	8	———	591.		
——	——	9	———	205, 262, 363.		
——	——	11	———	290.		
——	——	12	———	205, 235, 290, 295, 387.		
——	——	——	1	437.		
——	——	——	2	383.		
——	——	13	———	205.		
——	——	14	———	205.		
——	——	15	———	.....	.....	1328.
——	XXVI.	2	———	289, ...	.....	1139.
——	——	——	1	246, 536.		

Year.	Reg.	Sec.	Cl.	NUMBER OF CONSTRUCTIONS. Vol. I.	Vol. II.	Vol. III.
1814	XXVI.	2	2	499.		
—	—	—	3	248.		
—	—	—	4	536.		
—	—	—	6	245, 354,	641.	
—	—	3	—	551, 613,	872.	
—	—	—	4		870.	
—	—	—	8	470.		
—	—	—	9	470,	723, 805.	
—	—	—	10		723.	
—	—	—	11	297, 300.		
—	—	4	—	201,		1123, 1229.
—	—	—	2	216, 551,	810,	1249.
—	—	—	3		982.	
—	—	—	4		810.	
—	—	5	3		870.	
—	—	—	4	429.		
—	—	6	2		687.	
—	—	7	—		687, 1046.	
—	—	8	—	241,	863.	
—	—	—	2			1159.
—	—	—	5	556.		
—	—	—	7	413.		
—	—	—	8	413.		
—	—	—	9	413.		
—	—	—	10	413, 437.		
—	—	10	—			1226.
—	—	12	1	406.		
—	—	12	—			1191, 1226.
—	—	—	3	376,	870.	
—	—	13	—		659.	
—	—	14	4		668.	
—	—	—	5		668.	
—	—	—	6		668.	
—	—	—	7		668.	
—	—	—	8		1084.	
—	—	15	—	239, 293,		1248.
—	—	—	5	211.		
—	—	—	8	238,		1236.
—	—	16	3	207.		
—	—	—	4	408.		
—	—	20	—	202.		
—	—	—	1	249.		
—	—	—	3	537.		
—	—	21	—	224.		
—	—	22	—	289.		
—	—	24	—	289.		
—	—	25	1	212.		
—	XXVII.	—	—	92.		
—	—	16	—	593, 602.		
—	—	17	—	371.		
—	—	20	—		802.	
—	—	21	—	417.		
—	—	23	—	197, 199.		
—	—	25	—	500.		
—	—	29	—		776.	
—	—	30	—	500.		
—	—	31	—	209, 214, 418,	1052.	
—	—	32	—	297, 300.		

Year.	Reg.	Sec.	Cl.	NUMBER OF CONSTRUCTIONS. Vol. I.	Vol. II.	Vol. III.
1814	XXVII.	34		197,	852.	
		37	3	420.		
	XXVIII.			186.		
		2				1258.
		4			919, 1009.	
		5			821, 904.	
			1			1254.
		6	1		777.	
		7		261.		
		8		261,	1063,	1132.
		10	2		740.	
		11		9,	621.	
			1		777.	
			3		922.	
		12			1009,	1207.
			1			1254.
			3		1025, 1097,	1217.
			4			1217.
		13				1207.
		16	1		949.	
		19			657.	
1816	IV.	2		247.		
		4		507.		
	XI.		*		864.	
	XIII.					1241.
	XIV.	9			712.	
	XV.	10	2	264.		
						1335.
	XVII.	7		344.		
			2	258.		
			4		907.	
			5	573,	907.	
			6		907.	
			7		907.	
			8			1328.
		8				1247.
		13				1197.
		14	1			1162.
			2			1162
		15		511.		
	XVIII.	2			746.	
	XXII.			304, 411, 608.		
		19			782.	
1817	III.				767.	
	VI.	2		343.		
	XII.	24				1346.
	XVII.	5			634, 1045.	
		6	3	403.		
			4		670, 865,	1199.
		8	4	365, 558.		
			5	287,		1324.
		9		506.		
		10			1061.	
			1	464.		
			3	559.		
		11		361, 362.		

Year.	Reg.	Sec.	Cl.	NUMBER OF CONSTRUCTIONS. Vol. I.	Vol. II.	Vol. III.
1817	XVII.	13	1		1086.	
—	—	14	—	611,		1221.
—	—	—	2	285, 504, 518,	838,	1225.
—	XVIII.	—	—	334.		
—	—	6	—		649.	
—	—	7	—		691.	
—	—	—	3		824.	
—	XIX.	2	—	356.		
—	—	7	—	613.		
—	—	8	—	613,	675.	
—	—	9	—	297.		
—	—	—	3	338.		
—	—	16	2	285.		
—	XX.	10	4		728,	1364.
—	—	11	3		782.	
—	—	12	—			1365.
—	—	13	—	189,		1365.
—	—	16	2	585.		
—	—	—	17	381, 511,	727,	1136.
—	—	19	—		733.	
—	—	—	16			1167.
—	—	20	—	548.		
—	—	21	—	608.		
—	—	23	—		679.	
—	—	25	1		831.	
—	—	26	—		619,	1124.
—	XXV.	—	—		751.	
1818	IV.	12	—		857.	
—	V.	5	2	602.		
—	VI.	3	—	295.		
—	—	—	4		1012.	
—	VIII.	—	—	347, 390, 458, 548.		
—	—	2	2		823.	
—	—	3	—	460.		
—	—	6	—			1240.
—	—	7	—		734.	
—	—	9	2	517.		
—	—	10	—		771.	
—	X.	5	1		892.	
—	XII.	—	—	307,	684.	
—	—	2	—	298, 303.		
—	—	—	2	374, 379.		
—	—	—	3	299, 301.		
—	—	—	4	299.		
—	—	—	5	299.		
—	—	3	—	303, 391, 488.		
—	—	—	4	358, 419, 468,	994.	
—	—	4	—	303, 466.		
—	—	5	—	501, 545,		1184.
—	—	—	1			1246.
—	—	7	—	318.		
1819	I.	3	2			1346.
—	II.	—	—	508, 534, 603.		
—	—	13	—		1079.	
—	—	22	—		768.	
—	—	27	—		768.	
—	—	30	—	320, 499, 527, 576, 584,	669, 981, 1067,	1261.
—	—	—	1	427, 450, 455, 576, 589.		

Year.	Reg.	Sec.	Cl.	NUMBER OF CONSTRUCTIONS. Vol. I.	Vol. II.	Vol. III.
1819	II.	30	6	.....	.....	1245.
——	——	——	7	338, 450, ...	987, 1076, ...	1245.
——	——	——	8	.....	1076.	
——	VI	——	——	.....	713, 1111, ...	1144.
——	VII.	——	——	.....	.....	1265.
——	——	3	——	.....	992.	
——	——	4	——	.....	.....	1141, 1163.
——	——	5	——	384, ...	924, 1085, ...	1329.
——	——	6	——	582, ...	.....	1329.
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——	——	——	3	340, 345, 560, ...	913.	
——	——	——	4	345.		
——	——	——	6	.....	.....	1158.
——	VIII.	——	——	349.		
——	——	8	——	313, 329, 461, 523, 597.		
——	——	9	——	326, 580, 597, 614, ...	695, ...	1243.
——	——	10	——	440.		
——	——	13	——	.....	.....	1243.
——	——	16	——	.....	695.	
——	——	17	2	491.		
——	——	——	5	.....	.....	1243.
——	——	——	7	.....	795.	
——	——	18	——	380, 456, 475, 482, 531.		
——	——	——	4	496, 502, ...	695, ...	1205.
——	——	——	5	.....	.....	1205.
——	——	19	——	380.		
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——	——	104	——	483.		
——	——	110	——	.....	.....	1135.
——	——	111	——	.....	.....	1135.
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——	——	114	——	.....	1113.	
——	——	115	——	.....	.....	1135.
1820	III.	——	——	314, ...	.....	1188.
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1821	I.	——	——	.....	984.	
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——	——	5	3	463.		
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——	——	12	——	355.		
——	III.	——	——	603.		
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——	——	——	——	.....	883.	
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——	——	3	——	415, 516, 595, ...	627, 741.	
——	——	4	——	415, 451, ...	741.	
——	——	5	——	437, 521.		
——	——	——	1	.....	697, 730.	
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1822	I.	3	——	423.		
——	——	4	——	423.		

Year.	Reg.	Sec.	Cl.	NUMBER OF CONSTRUCTIONS. Vol. I.	Vol. II	Vol. III.
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——	VI.	3	2	.....	943.	
——	VII.	23	3	.....	677.	
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——	VIII.	——	——	474, ...	.....	1213.
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——	——	6	——	.....	1107.	
——	IX.	——	——	.....	926.	
——	——	2	——	533.		
——	XI.	15	——	.....	.....	1201.
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——	——	28	2	.....	996.	
——	——	——	4	469.		
——	——	38	——	.....	1075, ...	1192.
1823	I.	——	——	562.		
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——	IV.	6	——	.....	685, 691.	
——	VI.	——	——	565, ...	652, 661, 1092, ...	1357, 1359.
——	——	3	9	515.		
——	——	5	——	385.		
——	——	7	——	.....	873.	
1824	I.	12	——	388.		
——	IV.	——	——	366, ...	743.	
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——	——	4	——	611.		
——	VI.	5	——	419, 488.		
——	VII.	——	——	.....	.....	1241.
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——	X.	——	——	405, ...	1026, 1041.	
——	——	3	1	535, ...	.....	1232.
——	XI.	——	——	.....	652.	
——	——	2	——	.....	678.	
——	——	3	——	.....	678.	
——	XIV.	——	——	603.		
——	——	2	2	425.		
——	——	5	——	496.		
——	XV.	——	——	396, 414, 415, 434, 444, 445, 447, 448, 453, 475, 482, 505, 546, 547, 561, 568, 571, 579,	633, 640, 652, 661, 689, 694, 724, 855, 875, 886, 1006, 1029,	1157, 1164, 1170.
——	——	3	——	371, 430, 505.		
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1825	II.	——	——	490.		
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——	III.	——	——	399.		
——	IV.	——	——	446, 529.		
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Year.	Reg.	Sec.	Cl.	NUMBER OF CONSTRUCTIONS. Vol. I.	Vol. II.	Vol. III.
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—		2		554.		
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—			6		794, 844, 877.	
—		4	4		648, 794, 844.	
—			5		648, 794, 844.	
—		5	1		928.	
—		7				1236.
—	VIII.	2		407.		
—		5			754.	
—	IX.	3				1369.
—		9			973.	
—	XI.					1146.
—	XII.				619.	
—		4		402.		
—		6	2			1262.
—	XVI.			435.		
—	XVIII.			441.		
—	XX.			443.		
—		3	1		876.	
—		4	3	498.		
—	XXI.			439.		
1826	III.				624, 1021.	
—		2		442, 507.		
—		4		486, 545.		
—		5		426.		
—	X.	3				1211.
1827	III.	4			649.	
—	V.			525, 544,	752.	
—		3 & 4			1039.	
1828	III.			508.		
—		2		534.		
—		10	5	492.		
—	VII.	20				1224.
—	VIII.			549, 594,	619, 623, 628,	1154.
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—		3			972	
1829	I.	3	1		792.	
—		3				1197.
—		7			1026, 1041.	
—			1	535.		
—		10		542.		
—	II.	3		521.		
—		4			769.	
—	VIII.				703.	
—	X.					1331.
—		3		592,	970.	
—		10	1		626.	
—			7		626.	
—			11		626.	
—		14 & 15				1161.
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—		18			1120.	
—		Sch. A.		592,	970.	
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—	—	—	Exemption following Article 19	.....	1111.	
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—	—	—	Art. 46	.....	836.	
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—	—	—	Art. 1	.....	679, 710.	
—	—	—	Art. 3	.....	773.	
—	—	—	Art. 7	553, 555, 557, 583.		
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—	—	—	Art. 8, Para. 4	.....	687.	
—	—	—	Art. 9	556, ...	767.	
—	—	—	Art. 10	557, ...	977.	
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—	XIV.	—	—	.....	.....	1355.
—	XVII.	—	—	.....	749.	
—	—	3	2	598.		
—	—	4	2	.....	.....	1125.
—	XVIII.	2	—	562.		
—	—	3	2	542.		
1830	IV.	—	—	600.		
—	V.	—	—	564, ...	.....	1130.
—	—	3	—	.....	873.	
—	—	5	—	.....	934.	
—	—	—	1	.....	.....	1130.
—	VI.	—	—	.....	647.	
—	—	2	—	575.		
—	—	3	—	.....	1090.	
—	VII.	7	1	.....	.....	1222.
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1831	V.	—	—	.....	701, 714, 815, 870.	
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—	—	9	2	.....	798.	
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—	—	18	—	.....	692, 801, ...	1149.
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—	—	—	3	.....	802, ...	1168.
—	—	—	4	.....	.....	1226.
—	—	—	6	.....	689, 741, ...	1265.
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—	—	26	3		908.	
—	—	—	4		908.	
—	—	—	5		781.	
—	—	27	—		668, 748, 753.	
—	—	—	1		673, 681.	
—	—	—	2		680.	
—	—	28	—		688, 1055.	
—	—	—	1		780, 1003.	
—	VI.	—	—		700, 799, 819.	
—	VII.	—	—		727.	
—	—	2	—		771, 822, 823.	
—	—	13	2		685, 691.	
—	VIII.	—	—		713, 784, 860, 862, 946, 1001.	
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—	—	5	—		837.	
—	—	6	—		1028.	
—	—	8	—		714, 867, 930.	
—	—	9	—		879.	
—	—	11	—		714.	
—	—	14	—			1252.
—	—	15	—		951, 1094,	1252.
—	—	20	—		677.	
—	IX.	—	—		819.	
—	—	2	2		675, 688, 742, 804, 839, 944.	
—	—	—	3		839, 944.	
—	—	—	4		804, 839, 944.	
—	—	—	7		839.	
—	—	3	—		662, 746, 914, 954.	
—	—	4	2		662, 674.	
—	—	7	—		711.	
—	—	8	—		742.	
—	XI.	—	—		940.	
—	—	8	—		736, 907.	
1832	II.	2	2		708,	1338, 1354.
—	III.	—	—		955.	
—	—	2	2		887.	
—	VI.	—	—		828, 835, 1019.	
—	—	4	—		783.	
—	VII.	3	—		834, 1088, 1118.	
—	—	5	—		668, 775, 861.	
—	—	—	2		762.	
—	—	7	—		767, 798, 861, 947, 979, 1020,	1223.
—	—	15	—		804, 839.	
—	—	16	—		897, 921.	
—	—	—	1		795.	
1833	II.	—	—		789.	
—	—	3	—		791, 793.	
—	—	5	—		814, 845, 880.	
—	IX.	—	—		895,	1128, 1369, 1371.
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—	—	15	—		884.	
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Year.	Reg.	Sec.	Cl.	NUMBER OF CONSTRUCTIONS. Vol. I.	Vol. II.	Vol. III.
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—	—	—	1		923, 993.	
—	—	—	2			1183.
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1835	VII.	—	—		1033,	1134.
—	XI.	—	—			1325.
1836	X.	5	—		1092,	1357, 1359.
—	XI.	—	—		1051.	
—	XIII.	—	—		1068,	1151.
—	XVII.	—	—		1064.	
—	—	5	—			1263.
—	XXVI.	—	—			1370.
—	XXX.	—	—		1074.	
1837	XVII.	9, 10 & 32	—			1204.
—	XIX.	—	—		1117,	1173.
—	XXIV.	2	—			1197.
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—	—	7	—			1142, 1145, 1162, 1197, 1198.
—	XXV.	—	—		1112, 1118,	1148, 1149.
—	—	8	—			1292.
—	—	12	—			1160.
—	—	5	—			1362.
1838	VII.	—	—			1228.
—	XXII.	—	—			1228.
—	XXVII.	2	—			1336.
—	XXIX.	31	—			1135.
1839	I.	—	—			1219, 1225.
—	IX.	—	—			1229, 1250.
—	—	1	—			1356.
1840	IV.	—	—			1333, 1344, 1347, 1366.
—	—	2	—			1359.
1841	XXIX.	—	—			1321, 1334, 1339, 1368.
—	—	2	—			1327.
—	XXXI.	—	—			1322, 1326, 1332, 1353, 1370, 1330.
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53	Geo. 3	Chap 155	Sec. 55		759.	
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A

SUPPLEMENTARY INDEX

TO THE

CONSTRUCTIONS

OF THE

Sudder Dewanny and Nizamut Adawlut:

CONTAINING

1st. Errata in the Abstract-Index, Addenda, and Notanda.

2nd. All the Constructions omitted in the Abstract-Index.

3rd. A Key to the Abstract-Index, showing the Pages in which each Construction is to be found.

BY

F. L. BEAUFORT,

Bengal Civil Service.

FACILE EST INVENTIS ADDERE.

Published with the approval of the Sudder Dewanny Adawlut and Government.

CALCUTTA:

G. H. HUTTMANN, BENGAL MILITARY ORPHAN PRESS.

1845.

PART I.

ERRATA, ADDENDA, ET NOTANDA.

Page.	*Heading.*	*No. of Paragraph.*	
3	Affrays, ...	1	After "armed" insert "men."
10	Arrest, ...	1	For May read March.
„	„	4	Last line;—for page 308 read 307.
„	„	5	For page 45 read 245.
„	Assistance, writ of, ...	1	For No. 267 read 567.
11	Assistant to the Magistrate, ...	2	This Construction has been rescinded by C. O N. A. August 2, 1845. Specially empowered assistants are not competent to require moochulkas and security under Regulation IV. 1825.
„	„	4	For Cap. 105 read Cap. 155, Section 105.
„	„	7 and 11	*Note.*—Under C. O. N. A., February 23, 1845, such cases are no longer cognizable by any officer not exercising the full powers of a magistrate; and the appeal from an assistant vested with special powers lies to the session judge under Act XXXI. 1841
14	Bail,...	6	The dates of Construction No. 1233 are C. C. 19th July and W. C. 9th August 1839.
16	Cattle, ...	1	Insert "horses."
„	„	2	For vol II. read III.
„	Chowdrees, ...	1	*Note.*—Magistrates can no longer interfere in the appointment or dismissal of chowdrees. See C. O. N. A., May 6, 1844.
20	Collector, ...	31	Last line, for July read June.
21	„	42	For vol. II read III.
24	Contempt,.....	2	Contempt is now punishable under Act XXX. 1841, that portion of Regulation XII. 1825 referring thereto having been repealed.
25	Conviction of two or more offences, ...	1	Third line, for 1807 read 1810.
26	Curator, ...	1	For 1843 read 1841.
30	Dispossession summary process of Criminal Courts in cases of, ...	3	For "mortgager" read "mortgagee."
31	Ditto, ...	7	*Note.*—This will not hold good, when the collector is engaged in making settlements, or is acting under the powers vested in collectors by Section 16, Regulation VII. 1822, and Section 2, Regulation IV. 1828, which enactments suspend the powers of a

Page.	*Heading.*	*No. of Paragraph.*	
			magistrate to interfere in such muhals pending settlement, and authorize the collector to revise, alter, or reverse, the summary decisions passed by the magistrate. Pending settlement, the period of which is defined, the magistrate must refer all such disputes to the revenue authorities.
31 & 32	Dispossession, summary process of Criminal Courts in cases of, ...	13 and 24	*Note.*—Superseded by Act XXXI. 1841, and C. O. N. A. February 28, 1845. See note supra page 11.
33	Embezzlement, ...	5	For "are" read "is."
37	Execution of decrees II., ...	18	Insert the number of Construction, viz. 1248.
40	Ditto VII., ...	5	Insert No. 794 W. C. 12th June, C. C. 5th July 1833.
42	Fines, ...	4	For July read June.
43	Ditto, ...	13	For 9th June read 29th June.
„	Ditto, ...	19	Last line, for 1839 read 1842; and for page 344 read 86.
44	Forfeiture of land, ...	1	For Section 12 read 22; and for Section 13 read 23.
45	Gang robbery, ...	1	For Regulation II. read III. *Note.*—The latter portion of this Construction is obsolete, as Regulation III. 1825 was rescinded by Regulation XVI. 1825; and the Clause in the latter, which makes a reference to the Nizamut Adawlut necessary, has been repealed by Regulation I. 1831.
„	Gomashteh, ...	3	For "applicable" read "inapplicable."
47	Illegitimate children, ...	3	For vol. II. read III.
48	Incest, ...	1	For "Clause 6" read "Clause 4, Section 6."
49	Indigo, ...	17	For page 505 read 96.
51	Jails, criminal, ...	5	*Note.*—This Construction is rendered obsolete by Act XVIII. 1844.
52	Jurisdiction of Criminal Courts, ...	2	After "residing" insert "or being."
53	Ditto, ...	7	*Note.*—The latter portion of this Construction has been superseded by Act XVIII. 1839, under which the offence of unlawfully and knowingly buying property plundered by Thuggee may be tried by any court, which would have been competent to try it, if the offence had been committed within the zillah where that court sits.
54	Law Officer, ...	2	After "law-officer" insert "in his capacity of law-officer."
56	Magistrate's orders, appeals from, ...	20	For Section 17 read 7, and for page 204 read 240.
„	Ditto, ...	27	First line, after 7 insert Section 7.
58	Ditto, ...	54	For 9th August read 19th August.
59	Magistrate, powers of, ...	16	*Note.*—This has been rescinded by C. O. N. A. May 6th, 1844. See note on chowdrees, page 16.

Page.	*Heading.*	*No. of Paragraph.*	
62	Miscellaneous cases, criminal, ...	1	Second line, for "criminal award" read "judicial award."
64	Moochulka, or recognizance to keep the peace, ...	3	This Construction has been rescinded by C. O. N. A. August 2, 1845.
„	Moochulka, or recognizance to secure attendance, ...	2	For vol. II. read III.
70	Mortgage, ...	10	For "mortgager" read "mortgagee."
73	Native Officers, ...	35	For page 195 read 295.
„	Neglect of duty, ...	2	For 1814 read 1812.
74	Ditto, ...	10	After "neglect" insert "in conniving at the escape of a convict;" and for "to" read "by."
75	Nizamut Adawlut,..... ...	15	For vol. II. read III.
76	Opium,.....	1	Second line, for Regulation VIII read VII.
81	Paupers, ...	18	For No. 1033 read 1032.
87	Police Officers, ...	5	After "petition" insert "containing a specific request either that search may be made for the stolen property, or that the offenders may be apprehended."
„	Post Office, ...	4	For "Act II. 1839" read "Section 8, Act XX. 1838." *Note.*—The former enactment is not applicable, because "other means of enforcing the payment" have been provided by the latter.
89	Principal Sudder Ameen, ...	10	For 6th July read 8th, and for page 244 read 264.
96	Reference to Sudder Dewanny, ...	9	For "Commissioner" read "Session Judge."
105	Rewards, ...	2	*Note.*—This Construction has been superseded by Act XVI. 1843, which repeals Section 16, Regulation XVI. 1810.
106	Ryots, ...	1	For "Dewanny" read "Nizamut."
108	Security for good conduct,.....	14	Fourth line, for Section 2 read 20.
110	Slavery, ...	5	For 1825 read 1835.
„	Sodomy, ...	1	Dele "except for mitigation;" and insert "unless he differs with the law officer, or considers the punishment prescribed by Clause 7, Section 2, Regulation LIII. 1803 insufficient."
117	Stolen property,.....	6	First line after "proved" insert "to have belonged to or."
120	Superintendent of Police, ...	2	For page 26 read 25.
„	Ditto, ...	4	For page 44 read 45.
124	Witnesses, ...	19	For 28th February read 8th.
125	Workmen, ...	12	For page 88 read 17;
126	Zillah and City Courts,.....	9	For August read April.
„	Zumeendars,.....	5	For "willingly" read "wilfully."

PART II.

CONSTRUCTIONS OMITTED IN THE INDEX.

ACCOUNT BOOKS. *Page*

1. The rule in Section 24, Regulation XII. 1817, which requires putwarees to produce their accounts when called for by the courts of justice, is applicable to the subordinate courts. Moonsiffs, who may require to put the rule in force, should send the putwaree with a proceeding to that effect to the judge. No. 1346, C. C. June 24, W. C. August 2, 1842, ... III. 92

AFFRAYS.

2. A magistrate is competent to punish of his own authority persons implicated in an affray, although attended with slight wounding; and may award labour and irons. [*Under Section* 3, *Regulation II.* 1834, *the imprisonment must be without irons, and with fine, and it is only in default of payment of the fine that labour can be adjudged.*] No. 423, June 30, 1826, ... I. 178

AMEENS.

3. When the measurement of lands becomes necessary in addition to other local enquiries, the court may appoint a mohurrir and a nullee, or nullees, subordinate to the ameen with allowances not exceeding those of the ameen, but in addition thereto. No. 1337, C. C. May 13, W. C. June 2, 1842,... III. 90

4. In giving possession of lands so extensive as to render it impossible for one ameen to complete the duty within a moderate period, the court may appoint an assistant, or assistants, on separate allowances not exceeding those of the ameen. No. 1337, C. C. May 13, W. C. June 2, 1842, ... III. 90

5. The court has no power to appoint an ameen to give possession with larger allowances than 12 annas per diem. No. 1337, C. C. May 13, W. C. June 2, 1842, ... III. 90

II. Appeals from one's own decisions.

6. Construction No. 19, which allows a judge to try in appeal causes formerly tried and decided by him as register is superseded by Construction No. 305. (*See No.* 2 *of this head.*) No. 19, April 26, 1806, ... I. 6

III. Appeals, Regular. *Page*

7. All cases tried and decided in the first instance by the provincial courts are appealable to the Sudder Dewanny Adawlut, although the value adjudged against the appellant be less than Rs. 5,000. [*Superseded by Clause* 3, *Section* 28, *Regulation V.* 1831.] No. 72, December 13, 1810, ... I. 17

V. Appeals, preparation and trial of.

8. Under Acts VII. and XXII. 1838, the provisions of Clause 2, Section 27, Regulation XXIII. 1814, (regarding appeals in cases dismissed by a moonsiff without an investigation of the merits) and Construction No. 870, (see answers to queries 4th and 6th) are virtually superseded. [*The clause quoted has been expressly repealed by Section* 3, *Act XXIX.* 1841.] No. 1228, W. C. June 28, C. C. August 2, 1839,..... III. 57

9. The period of one month allowed for furnishing security for costs should be calculated from the date of the decree. If the order for summoning the defendant be passed within that period, and the remaining portion of the month is so brief as not to allow the appellant to furnish security prior to its expiration, the judge may exercise discretion in making a further allowance of time. No. 1244, W. C. August 31, C. C. October 4, 1839, ... III. 63

VIII. Appeals, Summary.

10. The Regulations do not provide for a summary appeal from the decisions of moonsiffs; and consequently the rules regarding summary appeals are not applicable to such officers. [*A summary appeal now lies to the judge from the orders or decrees of moonsiffs under the same rules as summary appeals from other officers under Act XXII.* 1838. *See Construction No.* 1228 *infra.*] No. 870, paras: 5 and 6, February 21, 1834, ... II. 159

11. A summary appeal does not lie on the ground that the suit was tried *exparte* in opposition to the Regulations; in such cases the appeal must be regular. No. 870, para: 5, February 21, 1834,...II. 159

12. Clause 2, Section 27, Regulation XXIII. 1814, (which regards appeals in cases dismissed by moonsiffs without investigation of the merits) and Construction No. 870 (answers to queries 4th and 6th) are virtually superseded by Acts VII. and XXII. 1838, [*and expressly so by Section* 3, *Act XXIX.* 1841.] No. 1228, W. C. June 28, C. C. August 2, 1839, ... III. 57

ASSISTANT JUDGE.

N. B.—The office of assistant judge was abolished by Regulation XXIV. 1814.

13. A judge is not authorized to recall suits, referred by him to an assistant judge under Sections 2 and 3, Regulation XLIX. 1803, except in cases of evident necessity arising from the absence of that officer, or from the vacancy or discontinuance of the office. No. 7, June 5, 1805, ... I. 2

14. Summonses to respondents in causes decided by an assistant judge, and appealed to a provincial court, are to be forwarded by the zillah judge to the assistant judge to be executed by the latter. No. 13, November 15, 1805, ... I. 4

15. Native officers attending an assistant judge may be employed, as far as is compatible with the discharge of their current duties, to assist the officers of the zillah court in transcribing the papers of appealed cases. No. 13, November 15, 1805,... I. 4

BURGLARY.

16. Although Clause 4, Section 2, Regulation XI. 1814, misquotes the punishment to which a burglar is liable under Clause 3, Section 3, Regulation I. 1811, by inserting the words "in banishment," yet the punishment of banishment cannot be adjudged under that clause, as it does not form part of the punishment in the clause cited. [*A sentence of banishment may be passed in cases of burglary under Clause* 3, *Section* 2, *Regulation XII.* 1818.] No. 218, August 2, 1815, ... I. 70

17. Under the discretion vested in the courts of circuit by Clause 3, Section 2, Regulation XII. 1818, they may mitigate punishment in the offences therein alluded to below 3 years imprisonment, and to such degree as they may judge proper. No. 299, December 26, 1818, ... I. 120

CIVIL JAIL.

18. The control of the civil jail is vested in the magistrate under the superintendence of the commissioner of circuit. [*Obsolete, see Act XVIII.* 1844.] No. 507, May 8, 1829, ...I. 216

CONFESSION.

19. Unless the prisoner deny *in toto* having made *any*, his mofussil or foujdary confession or examination adduced in evidence against him, though not proved by the testimony of the subscribing witnesses, should be read and explained to him at the time of taking his defence, and his admission or denial of the same entered on the record. No. 763, February 22, 1833, ... II. 85

COURT OF CIRCUIT.

20. Any general rules or forms, which courts of circuit may judge necessary to be observed by magistrates, should be proposed in the first instance to the Nizamut Adawlut. [*See Clause* 1, *Section* 3, *Regulation VII.* 1829.] No. 97, February 27, 1812, ... I. 25

DISMISSAL ON DEFAULT.

21. If the plaintiff absent himself previous to service of notice on the defendant, or before the reply be filed, the suit cannot be proceeded in and must be dismissed. No. 870, February 21, 1834, para: 4, II. 159

22. Under Acts VII. and XXII. 1838 the provisions of Clause 2, Section 27, Regulation XXIII. 1814 and part of Construction No. 870 are virtually superseded ;—that is to say, that in a case dismissed on default by a moonsiff a summary appeal now lies to the judge. [*The clause quoted has been expressly repealed by Section* 3, *Act XXIX.* 1841.] No. 1228, W. C. June 28, C. C. August 2, 1839, ... III. 57

DISPOSSESSION, SUMMARY PROCESS OF CRIMINAL COURTS IN CASES OF.

23. The Nizamut Adawlut did not approve of a mode proposed of instituting a separate and formal preliminary investigation to determine the question of relevancy in suits instituted under Regulation XV. 1824, and of a form proposed for taking the depositions of parties in such cases. The question of relevancy is best established by the evidence adduced to prove the dispossession. No. 396, July 22, 1825, ... I. 166

24. The original certificate from the foujdaree to the dewanny court, made under Clause 1, Section 5, Regulation VI. 1813, is not sufficient for the purpose contemplated in Section 4, Regulation XV. 1824. Under the last section the magistrate must in all cases send a copy of his proceeding to the civil court, on receipt of which the judge will transmit to the magistrate his proceedings in any case pending before him under Regulation VI. 1813 to which the proceeding of the magistrate appears to refer, and will proceed no further in the investigation of such case except on the institution of a regular suit. [*Superseded by Act IV.* 1840.] No. 444, March 2, 1827, ... I. 187

IV. Execution of Decrees, Sale of Lands in.

25. Clause 2, Section 7, Regulation VII. 1830 is applicable only to sales of estates permanently assessed. [*Obsolete, Regulation VII.* 1830 *is repealed by Act XII.* 1841.] No. 1260, W. C. November 1, 1839, Government January 16, 1840, ... III. 68

FINES.

26. The Sudder Dewanny Adawlut did not approve of a suggestion that parties fined under Clause 3, Section 12, Regulation XXVI. 1814, (*i. e.* for being unprepared to file exhibits on the day notified for the hearing of the suit) should instead of cash payments present petitions on stampt paper equal to the amount of the fines. No. 376, April 8, 1825, I. 156

INDIGO.

27. A magistrate has power to attach indigo crops only when the dispute is cognizable under Regulation XV. 1824, [*at present Act IV.* 1840 ;] and in cases in which he cannot act himself he must refer the parties to the civil court. No. 661, October 21, 1831, ... II. 28

MAGISTRATE'S ORDERS, APPEALS FROM, &c.

28. A magistrate may decide and pass sentence of punishment without reference to the court of circuit, provided he does not exceed his competency. No. 121, March 8, 1813, ... I. 35

II. Moonsiffs, powers and duties of.

29. Moonsiffs desiring to confine a putwaree until he produce his accounts, should send him with a proceeding to that effect to the judge. No. 1346, C. C. June 24, W. C. August 2, 1842, ... III. 92

NATIVE OFFICERS.

30. The provisions of Regulation V. 1804 (relating to the appointment and dismissal of native officers of Government) are applicable to English writers natives of India. No. 31, August 1, 1807, I. 8

V. Original Suits, amount of action in.

31. All original regular suits, in which the amount of the claim exceeds rupees 5000, are to be instituted and tried in the first place in the provincial court. [*Superseded by Section* 2, *Regulation XIX.* 1817.] No. 227, November 9, 1815,... I. 75

PAUPERS.

32. As the stampt paper before given to pauper suitors is no longer receivable under Regulation I. 1814, on their returning the former they should be furnished with the stampt paper prescribed by that Regulation. [*Obsolete, see Regulation XXVIII.* 1814.] No. 169, July 20, 1814, ... I. 52

PLEADERS IN CIVIL COURTS.

33. The deposit to be made for vakeels' fees under Section 23, Regulation XXVII. 1814, instead of furnishing security as before required, must be made in all cases, in which security would have been demandable under the rules in force before the promulgation of that Regulation. [*As regards summary suits see Clause* 3, *Section* 9, *Regulation XIX.* 1817.] No. 199, March 29, 1815,..... I. 63

34. The provisions of Section 31, Regulation XXVII. 1814, (regarding the fees of pleaders in suits withdrawn or dismissed on default) must be deemed applicable to all suits, whenever instituted, withdrawn or dismissed on default after the date fixed for the operation of that Regulation. No. 214, July 6, 1815, ... I. 68

POLICE OFFICERS.

35. A single judge holding a sitting of the court of circuit, or the half-yearly session of jail-delivery, is not competent to authorize the removal of a police darogah. [*But see Section* 15, *Regulation XXV.* 1814, *and Clause* 8, *Section* 7, *Regulation XVII.* 1816, *and No.* 15 *of this head*]. No. 88, July 4, 1811, ... I. 21
No. 91, September 19, 1811,..... I. 22

POSTPONED TRIALS.

36. If a judge of circuit, holding a monthly jail-delivery, is unable to dispose of any particular trial by the end of the month, such trial ought to be postponed for the judge holding the session for the ensuing month ; as also all miscellaneous business not completed before the end of the month. (*Obsolete*). No. 147, March 31, 1814, ... I. 46

PUTWAREES.

37. The rule in Section 24, Regulation XII. 1817, which requires putwarees to produce their accounts when required by the courts of justice, is applicable to the subordinate courts. Moonsiffs, who may require to put the rule in force, should send the putwaree with a proceeding to that effect to the judge. No. 1346, C. C. June 24, W. C. August 2, 1842, ... III. 92

RECORDS.

38. Copies of decrees prepared for records of court may be written on any paper. *(Superseded, except as regards the courts of moonsiffs and sudder ameens, by Clause* 2, *Section* 16, *Regulation XXVI.* 1814, *which requires English paper of a particular size and description.)* No. 184, August 17, 1814, ... I. 57

REGULATIONS, ERRORS IN.

39. If a new law should enact for a certain offence the same punishment as is prescribed by a former regulation, the provisions of which it at the same time misquotes so as to make the degree of punishment greater,—the force of the former law is not altered, and the court must be guided by it in awarding punishment. No. 218, August 2, 1815, I. 70

40. In the Persian translation of Section 73, Regulation XXIII. 1814, Section 45 is erroneously inserted and made applicable to sudder ameens. No. 239, February 17, 1816, ... I. 80

RESISTANCE OF PROCESS.

41. Cases of resistance of process should not be punished as affrays, as that offence has its appropriate penalty. No. 349, April 30, 1830,..... I. 232

REVIEW OF JUDGMENT.

42. An application for a review of judgment, under a stated difference of opinion between two judges, should be brought before another judge, when the question may be decided by a majority of voices. (*But see Section* 3, *Regulation II.* 1825). No. 175, August 3, 1814,..... ..... I. 55

43. Applications for a review of judgment should be brought, whenever practicable, before the judge or judges, by whom the judgment was passed. (*Since made law by Regulation II.* 1825). No. 201, April 18, 1815, ... I. 63

SECURITY FOR GOOD CONDUCT.

44. Security prisoners breaking jail are liable to a sentence of six months' imprisonment only, and cannot be committed to the sessions under Clause 1, Section 9, Regulation LIII. 1803. *(Superseded by Clause* 1, *Section* 5, *Regulation XII.* 1818). No. 161, May 20, 1814, ... I. 49

SESSION JUDGE.

45. A single judge of the court of circuit is not competent to authorize the removal of a police darogah. [*But see Section* 15, *Regulation XXV.* 1814, *and Clause* 8, *Section* 7, *Regulation XVII.* 1816, *and No.* 22 *of this head.*] No. 88, July 4, 1811, ... I. 21
No. 91, September 19, 1811, ... I. 22

III. Stamps in lieu of Institution Fee for Petitions of Plaint and Appeal.

46. In a suit, in which Government claimed the rent of certain lands, the provincial court on appeal from the zillah court adjudged a portion of the lands, rented at 2000 rupees per annum, to be valid lakhiraj :—a special appeal made by Government to the Sudder Dewanny Adawlut was declared admissible on payment of the institution fee upon 20,000 rupees, i. e. ten times the annual amount adjudged the appellant by the decree of the provincial court. [*Obsolete.*] No. 16, January 25, 1806,..... I. 5

IV. Stamps for Pleadings.

47. Under Section 12, Regulation XII. 1805 Clauses 1 and 2, Section 18, Regulation VI. 1797 are extended to Cuttack ; and the words "pleadings and other papers which are considered to be of the nature of pleadings" in the former include all miscellaneous petitions and answers, and other applications made under Clause 9, Section 17, Regulation VI. 1797. [*Regulation VI.* 1797 *was rescinded by Regulation I.* 1814.] No. 25, September 27, 1806, ... I. 7

VII. Stamps for Bail and Security Bonds.

48. As there is no rule extant by which the value of security bonds for a specific amount should be determined, such documents should be received on plain paper, until Government declares by a formal enactment the amount of the stampt paper on which they should be executed. [*See Art.* 1, *Schedule B, Regulation X.* 1829.] No. 431, September 22, 1826, ... I. 181

SUDDER AMEENS.

49. The rules regarding the execution of decrees passed by sudder ameens are contained in Section 15, Regulation XXVI. 1814. No. 239, February 17, 1816, ... I. 80

THEFT.

50. If the magistrate does not state his reasons for committing the prisoner he should be called upon to supply the omission ; and in the event of insufficient ground for commitment being shown, the judge should caution him against making unnecessary commitments in future, and should not exceed the measure of punishment, which it would have been competent to the magistrate to award, had he himself disposed of the case. No. 391, June 10, 1825, ... I. 163

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